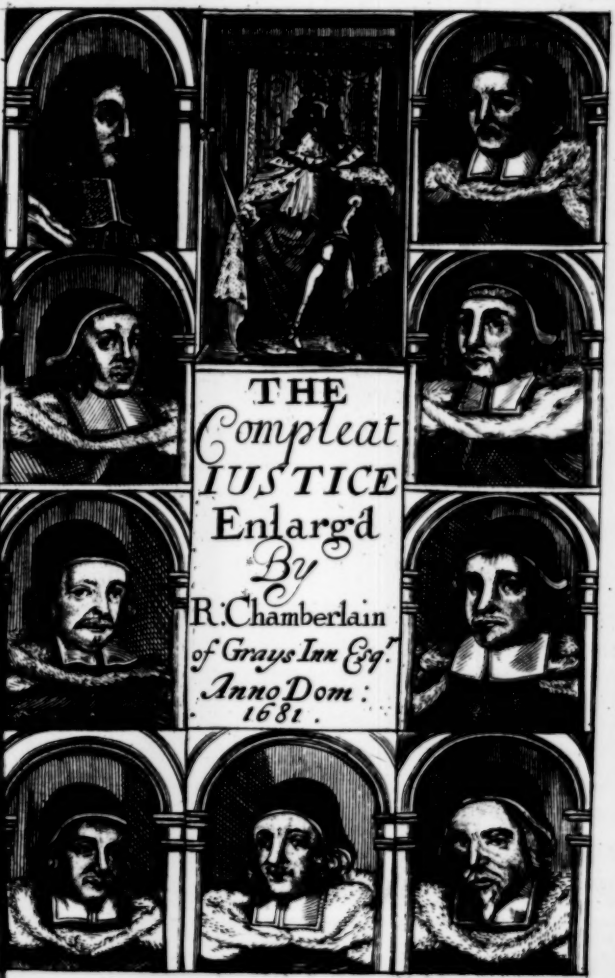

THE Compleat IUSTICE Enlargd By

R. Chamberlain of Grays Inn Esq.r

Anno Dom: 1681.

THE

Complete Justice.

BEING A

Compendious and Exact

COLLECTION

OUT OF

All such *Statutes* and *Authors* as may any ways concern the *Office*

OF A

JUSTICE of PEACE.

VERY

Much Enlarged and Carefully brought down unto the present Year. 1681.

TOGETHER WITH

A Proper Charge to be given at the Quarter Sessions.

By *Richard Chamberlain*, of *Gray's* Inn, Esquire.

LONDON, Printed by the Assigns of *Richard Atkins*, Esquire, and Sir *Edward Atkins*, Knight, and sold by *Henry Twyford*, in the *Hall-Court* of the *Middle Temple*. 1681.

TO THE READER.

Courteous Reader,

THe great Antiquity of Juſtices of Peace in this Kingdom, and the inlarging from time to time, as well as continuing their Authority hitherto; ſpeaks both the Utility and Neceſſity of that weighty Office: how it hath been eſtabliſhed and rendred more ample and extenſive by the grave wiſdom of our Law-Makers, will be eaſily perceived by the ſeveral Acts of Parliament referred to in this Enchiridion; which having now been diligently reviſed and maturely examined, thou wilt find free from thoſe Errors that had crept into former Impreſſions, and an Addition not only of much matter upon the old Laws, but likewiſe of ſuch later Statutes as have been made until this preſent Year, 1681, and any way concern the Office of a Juſtice of Peace for thy further Incouragement to buy this Uſeful Collection.

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Abjuration.

THe Abjuration of a ſeditious Sectary, ought to be made in open Quarter Seſſions of the Peace, and there to be entred of Record in the Rolls of the Seſſions by the Clark of the Peace. 35 *El. cap.* 1. & 2. *Lam.* 615.

Abjuration of a ſeditious Sectary made in open Qu. Seſſions, muſt be certified to the Juſtices of Aſſiſe at the next Aſſiſes. 35. *El. c.* 1. *Lam.* 590.

Juſtices of Peace cannot arraign a man upon his Abjuration for Felony. *Lam.* 541.

Abjuration of Sanctuary is taken away by ſeveral Statutes, and by 28 *Hen.* whereby thoſe Statutes which took it away are revived.

Vide its original and determination, 3 *Inſt.* 117. *Clergy*, &c.

Vide plus Recuſants.

Abſolve. *Vide* Treaſon.

Acceſſary and Principal.

Who ſhall be an Acceſſary before the Fact.

1. Abetter, Procurer, or Conſenter to a Felony. *Dal.* 396. *Cro.* 41. 2. *nu.* 1. *Lam.* 286, 287, 288. *Staunf.* 24. 2.

2. Com-

2. Commander of an evil act is Acceſſary to the Felony proceeding thereof; as if death proceed of beating, or robbing. *Lam.* 286. *Dal.* 396. *Cro.* 43. 2. *nu.* 34.

3. Commander of one Felony, whereby another enſueth, is acceſſary to the ſecond; as *A* commandeth *B* to fire the houſe of *C*, and thereby many are fired, *Lam.* 286, 287, *Cro.* 43. b. *num.* 36.

4. Commander of a Felony, tho it be executed in another faſhion, time, and place, or manner than was commanded; as if *A* counſels *B* to kill *C* by poiſon, and he kills him with a dagger, *&c. Lam.* 286, 287. *Cro.* 42. 2. *nu.* 14. *Dal.* 397.

5. When a Statute ordaineth an act to be Treaſon, or Felony, which was not ſo at the Common Law, and ſaith not, that the abettors, aiders, comforters, or conſenters ſhall be Felons, yet it ſhall be Felony in them. *Dal.* 396. *Lam.* 285. Acceſſaries before and after in the new Felony of Multiplication, *&c.* 3 *Inſtit.* 7. 4. *Dal.* 400.

Who not.

The Felony commanded is executed on another perſon, the Commander is not Acceſſary. *Lam.* 287, 288. As to burn the houſe of *C*, being commanded to burn the houſe of *B*.

The commanded performing more than was commanded, committeth Felony, the commander is not acceſſary, *Lam.* 287. As where one is commanded to rob a man (in the way) of his money, and he robs him in his houſe of his Plate. So where he does another diſtinct thing; as to ſteal an Ox, being commanded to ſteal a horſe *Plo.* 475.

The commander of one Felony to be done to a man, is not acceſſary to another kind of Felony committed againſt the ſaid party; as one counſelled to poiſon *A*, giveth it to *A*, and *B* the counſellor is not Acceſſary to the murder of *B*. *Lam.* 287, 288.

Com-

Commander, or Counſeller to a fact, countermandeth it before it be done. *Lam.* 289. *Dal.* 393. *Cro.* 42. 2. *nu.* 16.

The knower of a Felony without conſenting. *Lam.* 289. But ſuch concealment is finable, and he may be impriſoned till he find ſureties to pay the Fine, to be ſet by the Juſtices before whom the Cauſe is heard. *Cro.* 41. b. *nu.* 8. *Dal.* 395.

One not party nor privy, who is preſent at a Felony, and doth not diſturb it, nor purſue the Felon is finable. *Lam.* 289. *Dal.* 395. No Acceſſary before nor after in *ſe defendendo*, becauſe not done *felleo animo*. 3 *Inſt.* 56.

Acceſſary after the fact.

Receiver of a Felon, knowing him to be one, and ſuffering him to eſcape, whether before or after attainder. *Crom.* 41. 2. *nu.* 1. *Dalt.* 398.

Receiver or comforter of a Felon with an evil intent. *Lam.* 289, *Dal.* 398. In the ſame County where the Attainder was. *Vide* County, Confeſſion.

Arreſter of a Felon by Hue and Cry, taketh the goods, and letteth him go. *Lam.* 299. *Dal.* 400.

One purſuing a Felon for his own goods, taketh money of him not to give evidence againſt him, whereby he is freed. *Lam.* 290. *Dal.* 400. So if one upon Hue and Cry arreſt a Thief, and take the goods, and let him go. *L.* 285. *Cro.* 42. b. *num.* 24.

Receiver or comforter of an Acceſſary, knowing thereof. *Lam.* 291. *Dal.* 400.

Receiver of ones Brother, knowing him to be a Felon. *Lam.* 291. *Dal.* 399.

So the Maſter keeping his Servant, knowing of his Felony committed; and the ſervant continuing to ſerve the Maſter, knowing of his Felony.

Receiver of an approver, or one attainted or outlawed of Felony, knowing thereof. *Lam.* 293.

To harbour a Felon attainted in the ſame Country. *Cro.* 43. 2. *nu.* 31. *Dal.* 398.

But *Lam.* 293. holdeth it reaſonable, that he firſt have knowledge of ſuch a record.

Receiver of ſtollen goods, knowing them to be ſtollen. *Cro.*41.b.*nu.*3. many authorities remembred: but 42. a.*nu.*17. he ſaith, that he muſt receive the Felon alſo, elſe no good indictment. *Lam.* 500. 291. *Vide Cro. &c. Vide Crom.*42.b.*nu.*23. & 43.b.*nu.*37. *Dalt.* 399.

Who not.

A Suitor by word or writing for the deliverance of a Felon, knowing thereof. *Lamb.* 289,290. *Dal.* 398. So relieving him in priſon. *Br.Cor.*103.

Purſuer of a Felon for his own goods, taketh them again, and letteth him go. *Lamb,*290. *Dal.*399.

Reliever or Receiver of one bailed for Felony. *Lam.* 290.*Cro.*42.b.*nu.*25.*Dal.*398.

Buyer of ſtollen goods, knowing thereof. *Lamb.*291. unleſs he receive the Felon. *Crom.*42.a.*nu.*17.*Dal.*399.

The Wife receiving the Husband, knowing him to be a Felon. *Lam.*291,292. *Dal.*398.

Receiver of the ſtriker of the ſtroke, after the ſtroke, and before the death. *Lam.*292.

After Acquittal as principal, one may be arraigned as acceſſary after the fact, but not before the fact. *Lam.* 292,557. *Crom.*42.b. *num.*18. It ſeems, no acceſſary in Piracy, becauſe no Felony at *Com. Law.* 3 *Inſt.*112.

Who ſhall be ſaid a Principal.

In the higheſt and loweſt offences all are Principals; Treaſon, and Treſpaſs.

So in Riots, Routs, *&c.*

So in Petit-Larceny. 3 *C.* 750. 12 *Co.* 81.

So in Forgery made Felony by the Statute: *More's Rep. 666.* So all Abettors in Rape. *Cro.* 47. *Dal.*392.

So it ſeems in Præmunire. *Br. Præm.* 4, 6.

In Treaſon, the adviſers, counſellors, aſſiſtants, and receivers knowingly, are Principals. Reſcuer of one in for Felony.

Whatſoever

Whatſoever makes one acceſſary in Felony, is principal in Treaſon.

Thoſe of the ſociety of a Felon, and preſent at the fact, tho not actors. *Stamf.* 40.a. *Cro.* 22. a. *nu.* 10. 15. *Dal.* 395.

So tho not preſent; as in caſe of perſwading another to drink, knowing it to be poiſon. 4 *Co.* 44. 3 *Inſt.* 138. tho a ſtranger drink it.

A and *B*, Thieves, ſet upon *C* and *D* to rob them, *C* flies one way, *A* purſues him, but robs him not; *D* flies another way, and *B* purſues and robs him; *A* is principal in the Robbery of *D.* *H.* 26. *El.*

In Man-ſlaughter the commander is as principal.

Reſcue of one arreſted for Felony makes him a Principal. *Dal.* 399.

An abetter, procurer, or receiver of a woman, knowing her to be taken away contrary to the Statut. 3 *H.* 7. *cap.* 2. *Lamb.* 285.

Acceſſary in one County to a Felony done in another County, may be indicted where he becometh acceſſary. 2 & 3 *Ed.* 6. *cap.* 24. *Dal.* 297.

Acquittal. *Vide* Enditements.

Additions.

In every Indictment or Preſentment, where outlawry lyeth, the eſtate of degree, or myſtery, the County, Town, Hamlet, or place where the indicted dwelleth are to be added. 1 *H.* 5. *cap.* 5. *Lam.* 488.

What ſhall be a good Addition of degree, or eſtate.

Duke, Marqueſs, Earl, Viſcount, Archbiſhop, Biſhop, Baron, Knight, Serjeant at Law, Eſquire, Gentleman, Alderman, Yeoman, Widow, Single Woman, Dean, Arch-deacon, Parſon, Doctor, Clerk, Pariſh-clark. *Lam.* 488, 489, 490.

What not.

Such as are common to many degrees, as to Gentlemen and Yeomen, are uncertain; as Farmer, Servant, Butler, Chamberlain. *Lam.*489. *Cro.*109. a.6.*nu.*8.

What ſhall be a good Addition of Myſtery.

Chopchurch, Merchant, Grocer, Mercer, Tailor, Broker, Husbandman, Hoſtler, Lighter-man, Waterman, Labourer. *Lam.* 489.

What not.

That which is no Myſtery, nor degree, as Citizen; nor any unlawful trade, as Extortioner, Maintainer, Vagabond, Heretick, Dicer, Carder, &c. *Lam.*489.

Addition of degree, or myſtery, muſt be as the party then is. But Addition of the place may be ſuch whereof he was. *Lam.*489, 490. *Additions Br.* 41.

Addition of degree, and myſtery, muſt be knit to the proper perſon. *Lam.* 489.

The Statute 1 *H.*5. *cap.*5. of Additions doth not extend to Informations. *Lamb.*110. 2 *Cro.* 531.

No Addition neceſſary in return of a Reſcue, and outlawry thereupon. 2 *Cro.*531.

Addition in Inditement of Forcible entry coming after the *Alias dictus*, not good.

So in other Inditements. 3 *Cro.* 198.

Juror muſt be returned with an Addition. 27 *El.* 7.

What ſhall be a good Addition of Place.

Either of the Town, or Pariſh, if they be both of one name. *Lam.* 490.

Of the Town only, where there be two Towns in one Pariſh. *Lamb. ibid.*

Either of the Town, or Hamlet, if there be two Hamlets in one Town. *Lamb. ibid.*

Of the Town, if the perſon be of a place known within the Town, *Lam.ibid.*

Addition

Addition muſt comprehend the County, Town, or Hamlet, whereof the party is, or was. *Lam. ibid.*

What not.

Of the place where he is Parſon, without naming the place of his abode. *Lam. ibid.*

Additional Duty. *Vide* Exciſe.

Affray, Affrayers.

Affray is a publick offence to the terrifying the King's Subjects; from the French word *Effrayer.* 3 *Inſt.* 158. *Dal. fo.* 35. and a nuſance inquirable in a Leet. *Ib.*

Upon Affray made in the Juſtice of Peace's View, he may lay hands on, and arreſt the offenders, to find ſurety for the peace, and take away their weapons. 21 *H.* 7. 22. *b.*

So bind to the Peace ſuch as ſtrike, threaten, or contend in hot words in his preſence.

To fight a ſingle combat, tho no blood drawn, is an Affray. 3 *Inſt.* 158.

Juſtices of Peace, Sheriffs, Conſtables, *&c.* may be fined and impriſoned, if they do not endeavour to part Affrayers in their view.

So any perſon charged to aſſiſt them, Stewards of Leets, Turns, Pipouders may commit Affrayers in their view, executing their Office. *Dal.*

An Affray may be without word or blow: as, to be armed with armor or weapon not uſually born. *Lam.* 126.

It is no Affray properly, unleſs there be ſome weapon drawn, or ſtroke given, or offered to be given, or ſome ſuch attempt. *Dal.* 36.

Conſtable, or other Officer, may lay no hands on any intending to make an Affray till weapon drawn, or offer of blow. *Dal.* 36. *Lam.* 132. *Cro.* 146. 2.

An Affray is in a houſe, and the doors are ſhut, the Conſtable may break into the houſe to ſee the Peace kept. *Dal.* 36.

If the Affrayers flie into another houſe, into a Franchiſe or other County, the Conſtable upon freſh ſuit may purſue them, but cannot meddle out of the County, but as a private man. *Dal.* 36.

Affrayer may be commanded by the Conſtable, or other Officer, to avoid upon pain of impriſonment: and if the Affray be great, they may make Proclamation, and command the parties to priſon for a ſmall time, whom he muſt deliver without fine. *Lamb.* 132. *Dal.* 36.

After an affray a Juſtice of Peace may commit the offenders till they find Sureties (if the Affray were in his preſence;) if out of his preſence, he may ſend his Warrant, and commit them till they do find Sureties. *Vide* Surety of the Peace.

Steward of the Sheriffs Turn, Leet, or Pipowders, may commit or bind to the good behaviour for an Affray in their view. *Lam.* 14.

If a man be dangerouſly hurt, and the wound mortal, altho the Juſtice of Peace may bail the offender, yet it is the ſafeſt way to commit him till there appear ſome hope of recovery. *Dal.* 37.

If an Aſſault or Affray be made upon a Juſtice, or Conſtable, they may defend themſelves. The Juſtice may cauſe them to be arreſted, the Conſtable may commit them to the Stocks, and after carry them before a Juſtice of Peace. *Dal.* 37. *Vide* Peace,

An Affray is in a Corporate Town (which hath Juſtices within it ſelf) while the Seſſions be held there; the Juſtices of Peace ſhall not meddle there: but it is otherwiſe at the Aſſizes. *Cro.* 146. b.

Every private man preſent at an Affray, aſſault, or battery, may part them, ſtay them that come to the affray with weapons, ſtay the affrayers till the heat be over, and then deliver them to the Conſtable: but may not commit them, unleſs one of the affrayers be in peril of death. And if he flie into a houſe, upon Hue and Cry break open the houſe, and take him. *Dal.* 37.

38.

38. *Lamb.* 131. *Cro.* 146. 2. *Vide plus* Arreſt, Conſtable, Juſtice of Peace.

Agnus Dei, Croſſes, Beads, Books, *&c.*

If any perſon, to whom any of theſe, or any other ſuperſtitious things from the See of *Rome*, or authority thereof be offered, do diſcloſe the name, dwelling, or place of reſort of ſuch offerer or deliverer, to any Juſtice of Peace of the ſame Shire, the ſame Juſtice muſt within fourteen days next after declare the ſame to ſome one of the Privy Council, on pain of Premunire. 13. *El. cap.* 2. *Dal.* 333. *Vide plus* Treaſon, Miſpriſion, and Premunire.

Alehouſes.

The true original and uſe of Alehouſes and Victualling houſes, was for receit of Travellers, or relief of the poor. 1 *Jac.* Abuſes growing in time of *H.* 7. their number was leſſened by power of two Juſtices of Peace. 11 *H.* 7.

The miſchief growing yet, 5, 6 *Ed.* 6. 1, 21. *Jac.* 1 *Car.* 1. have been made for redreſs of it.

Note, 1 *Jac.* is perpetuated by 21 *Jac.* yet is recited by it, among other Statutes, to continue till the end of the next Seſſion of Parliament: but Statutes in the Affirmative never take away former Statutes in the Affirmative (*Vide* Recuſants;) and ſo 1 *Jac.* is without doubt perpetually in force.

Alehouſes are moſt properly in the midſt of a Town; not in by-places, where Thieves and Rogues may be harboured; nor in places diſtant from the Town, except upon the River ſide, and where there is great need, and the perſons well known. *Reſolv.* 36.

Alehouſes, *&c.* of Bailiffs, Sergeants, *&c.* are very miſchievous, for carrying thither arreſted perſons, to the expence of their Money, & loſs of the Plaintif's debt.

Therefore many ſuch have been diſallowed in *B. R.* a thing fit for Juſtices of Peace to take into conſideration:

and

and the rather becauſe of 22, 23 *Car.* 2. Sheriffs, Bailiffs, *&c.* are prohibited to carry a perſon taken in cuſtody, to any drinking houſes without his conſent, nor ſhall they impoſe any charge on him (but what he calls for, *&c.*)

Two Juſtices (one of the Quorum) may Licenſe one to keep a common Alehouſe, taking bond with good ſurety for good rule to be kept in his houſe. 5 *Ed.* 6. *cap.* 25. And an Alehouſe-keeper put down by two ſuch, cannot be allowed by any other two, but in open Seſſions. *Dal.* 30.

Twelvepence is given to the two Juſtices of Peace, for taking a Recognizance of him that is allowed to keep a common Alehouſe. 5 *Ed.* 6. *cap.* 25. *Lam.* 370. Condition of a Recognizance for an Alehouſe. *Lam.* 354.

He that keepeth an Alehouſe of his own authority, without licenſe of two Juſtices, one being of the Quorum, or after prohibition of two ſuch Juſtices, may by two ſuch Juſtices be committed to priſon for three days without bail, and till he be bound with two ſureties to keep none after. *Dal.* 31. *Lam.* 354. *Vide* Stat. 3. *Car.* 3. which alloweth ſelling of Beer or Ale in Fairs (though unlicenſed;) as alſo the puniſhment of perſons unlicenſed.

Information of the offence and recognizance taken by two Juſtices, one being of the Quorum, of an Alehouſe kept againſt the Statute of 5 *Ed.* 6. *cap.* 25. and certified by them to the Seſſions, is a ſufficient conviction without further tryal at the Seſſions: and they may aſſeſs the fine of twenty Shillings without making proceſs againſt the offender. *Lam.* 572.

Information made in Seſſions, that an Alehouſe-keeper hath done an act, whereby he hath forfeited his Recognizance, they may award proceſs againſt him, to ſhew why he ſhould not forfeit his Recognizance. Quære what proceſs. *Lam* 524. 529.

Enquiry whether Alehouſe-keepers have forfeited their

their Recognizance, ought to be at the Quarter Seſſions. 5 *Ed.* 6. 25.

Fines impoſed by the Stat. of 5. *Ed.* 6. *c.*25. concerning Alehouſes cannot be altered by the Juſtices of Peace. 5 *Ed.* 6. *c.* 25. *Lam.* 578.

Juſtices of Peace muſt certifie the Recognizance taken for Alehouſes at the next Quarter Seſſions after they are taken, or loſe five Marks. 5 *Ed.* 6. *ca.* 25.

Any directly or indirectly ſelling Ale or Beer unto any Alehouſe-keeper not licenſed, more than for his neceſſary proviſion for his houſhold, ſhall loſe after the rate of ſix ſhillings eight pence for every barrel. For the levy and diſpoſal of the penalty, *Vide* Victuals. 4 *Jac.* 4.

Ale-houſe-keeper or Inn-keeper ſuffering any tipling contrary to 1 *Jac. ca.* 9. 4 *Jac. cap.* 5. 7 *Jac. cap.* 10. 21 *Jac. cap.* 7, forfeiteth ten ſhillings, and every ſuch tipler three ſhillings four pence: for not ability of payment, the Alehouſekeepers, *&c.* to be committed to the Goal till the penalty be paid, which penalty is to be paid within ſix days, or the diſtreſs to be ſold. 1 *Jac. cap.* 9. The tipler to the Stocks for four hours. 4 *Jac. cap.* 5. *Dalt.* 28, 29. 1 *Car* 4.

Juſtice of Peace hath power in thoſe caſes to miniſter an Oath to witneſſes, wherein the oath of one witneſs is ſufficient. 1 *Car. cap.* 4. 1 *Jac.* 9. 21 *Jac.* 7.

The Conſtables and Churchwardens neglecting to levy, or to certifie the cauſe thereof by twenty days to the Juſtice that granted the diſtreſs, do forfeit forty ſhillings; in default thereof to be ſent to the Goal till payment be made. 1 *Jac. cap.* 9. *Dal.* 29. *Cro.* 78. 2.

Conſtables, Church-wardens, Side-men, *&c.* in their Oaths ſhall be charged to preſent the offences againſt the Statutes 1, 4, 21 *Jac.* But the preſentment muſt be within three months after the offence, and the the party but once puniſhed for each offence. 4 *Jac.*

Alehouſe-keepers and Inn-keepers ought to lodge Travellers. *Quare*, how he is compellable: and *Vide* the opinion of Sir *James Ley* Chief Juſtice at Lent Aſſiſes. 1622. *Dal.* 28.

No

No Inn-holder, Alehouſe-keeper, or other Victualler ſhall be compelled to ſell Victuals to others, or to have lodging, except the party firſt pay ready money. *Dal.*309. *Coke* 87. b. *Brook. action ſur le caſe* 76.

Selling of leſs than a full Ale-quart of the beſt Beer or Ale for a penny, and two quarts of ſmall for a penny, upon oath of one witneſs, the penalty is twenty ſhillings. 1 *Jac. cap.* 9. 4 *Jac. cap.* 5. 21 *Jac. cap.* 7. *Dal.* 27.

Any tippling in any Inn, Alehouſe, or Victualling houſe, whereſoever his habitation be, forfeiteth three ſhillings four pence. 21 *Jac. cap.* 7. *Dal.* 28. For the ſecond offence he ſhall be bound to his Good behaviour. 21 *Jac.*

Alehouſe-keeper being drunk, or continue drinking in another Alehouſe, is diſabled to keep an Alehouſe for three years. 4, 7, 21 *Jac.* 7.

A Feme covert keepeth an Alehouſe, and ſelleth Ale, *&c.* without licenſe, contrary to her husbands will, the husband is puniſhable. *Dal.* 30.

The voluntary confeſſion before one Juſtice of Peace of any offender againſt the Stat. 1 *Jac. c.* 9. or 4 *Jac. c.* 5. is ſufficient to convince the party offending. And after confeſſion, the oath of the party confeſſing is proof againſt any other offending at the ſame time. *Dal.* 28. 21 *Jac. c.* 7.

Alehouſe-keepers are diſabled to keep Alehouſes for three years after,

1. If they ſuffer tipling. *Dal.* 28.

2. If they ſell not a quart of the beſt, and 2 quarts of ſmall Beer or Ale for a penny. *Ib.*

3. If they be convicted by Indictment at the Aſſiſes, Seſſions, or Leet, for being drunk. 4 *Jac. c.* 5. Or before one Juſtice upon Oath of one Witneſs. 21 *Jac. cap.* 7.

4. Continue drinking in another Alehouſe. 7 *Jac.* 10. 4 *Jac.* 5. *Dal.* 34. *Vide plus* in Confeſſion, Victuallers.

In all these cases, if he be licensed again within three years, such license is void, and he to be punished as victualling without license. *Dal.* 34.

If any unlicensed Alehouse-keepers be convicted by the view of any Just. of the Peace, confession of the offender, or oath of two witnesses, he loseth twenty shillings to the use of the Poor of the Parish, to be levied by way of distress by Warrant from the Justice of Peace convicting, and within three days to be sold. 3 *Car. cap.* 3.

Where there is no sufficient distress, or non-payment within six days after conviction, the offender is to be openly whip'd as the Justice of Peace shall limit. 3 *Car. cap.* 3.

The Officer refusing or neglecting to execute the Justice his Precept, is to be committed to the Goal, until he do; or procure the Offender to be whipped, or pay forty shillings to the use of the Poor of the said Parish. 3 *Car. cap.* 3.

The second offence is commitment to the House of Correction for a month. *Ibid.*

For the third offence he is to remain in the House of Correction, till he be delivered at the General Sessions. *Ibid.*

He that is punished by 3 *Car.* 3: not to be punished by 5 *Ed.* 6. *cap.* 25. *& è contra.*

In places where Forces are kept, any person may sell Beer. 5, 6. *Ed.* 6. 3 *Car.* 1. 3.

Aliàs dictus. *Vide* Addition, Indictment.

Alien and his Trial. *Vide* Trial.

Allegiance. *Vide* Supremacy.

Amerciaments.

Amercements and Fines must be certified out of the Sheriff

Sheriffs Turn at the next Seſſions, and levied by proceſs from the Juſtices of Peace to the Sheriff, by 1 *Ed.* 4.

Amercement for non-appearance at a Turn muſt be aſſeſſed by the Court, and affeered by affeerors appointed. 1 *Cro.* 275. 8. *Co.* 39. 2.

Amercement by the Steward in a Court Baron. 3 *Cro.* 748.

Amercement of a not walled Town, where a man is killed in the day-time, and the Felon eſcapes, is by the Stat. of *Winton.* So in the night, and the Town walled. 3 *Co.* 6. b.

Amercement of a Vill for not having a Tumbrel, or Pillory, muſt not be, for the Lord of the Liberty is to provide them; by the opinion of 3 *Inſt.* 3 *Cro.* 698. *Sed Quære.*

Amercement for detaining Priſoners bailable. *Dal.*

The owner of a Beaſt, knowing it to be harmful, and not reſtraining it, whereby it killeth one, is to be arraigned for his death, and amerced for the King. *Lam.* 239. *Cro.* 24. *nu.* 45.

Offenders in gathering more Amerciaments than are in their lawful eſtreats, to be convicted by two Juſtices, one to be of the Quorum, appointed by the Cuſtos Rotulorum, or in his abſence by the eldeſt of the Quorum, for the overſight of the Sheriffs. 11 *H.* 7. 15.

Eſtreats of Amerciaments muſt be by Indenture between the two Juſtices (appointed for overſight of Sheriffs Books) and the Sheriff, or Under-Sheriff, under their Seals, or elſe the Sheriff to loſe forty ſhillings. 11 *H.* 7. *cap.* 15.

No Amerciament for default of appearance, when the Seſſions are not ſummoned by Precept. *Lam.* 381.

Or when the ſummons is at one place, and kept at another. *Ibid.*

Or when the Seſſions were at the ſame time in two places, and the party appeared at one of them. *Lam.* 384.

Juſtices

Juſtices of Peace cannot amerce their fellow for abſence from the Seſſions; but a Juſtice of Aſſize may amerce a Juſtice of Peace for his abſence from the Goal-delivery. *Lam.* 385.

Clerk of the Peace, Coroners, Sheriffs, Bailiffs of Franchiſes, Conſtables of Hundreds, may be amerced for default of appearance at Seſſions. *Lamb.* 395.

Amerciaments of Jurors for concealment. So for refuſing to preſent, being ſworn; but affeered according to the default, 8 *Co.* 39. a. and affeerance by the Steward is void. 8 *Co.* 40. b.

Grievouſly amerced for taking exceſſive Toll. *Vide* Toll. *Vide* Jurors, *Lam.* 400, 401. 3 *H.* 7. *cap.* 1.

Apparel.

The Maſter, who put his Apprentice into Apparel, cannot take it away, tho he part with his Apprentice. *Dal.* 153. *Br.* Tit. 93.

The Law againſt exceſſive Apparel (24 *H.* 3.) is repealed, and every one left at liberty to wear what he will, by 21 *Jac.* 25.

None ſhall make any Felt of foreign Wool, unleſs firſt Apprentice, *&c.* ſeven years, upon five pounds penalty, and loſs of Hats ſo made. 8 *El.* 11. 1 *Jac.* 17.

None ſhall ſell any Cap or other thing, or Felts, but only Hats; nor any Cap of Woolen Cloath, not knit: nor dye any Cap with Bark or Swarf, but with Coperas and Gall, or Wood and Madder: nor thick or full any Cap in any Mill, unleſs firſt well ſcoured, *&c. Ib.*

Upon Hue and Cry after a Felon, it is neceſſary to deſcribe him by his Apparel, *&c. Dal.* 114.

Women apparelled in Mens Cloaths, pulling down an Incloſure, puniſhed in the Star-chamber. *Lam.* 325.

The Apparel and Money of one found dead in the Field, if unknown, ſhall be given to the Poor: elſe to his Executors. *Stamf.* 21.

Suſpected perſons, who live idlely, and are yet well apparelled,

apparelled, having nothing to live on, ſhall be bound to the Good behaviour, unleſs they give a good account. *Dal.* 293.

Appearance.

Recognizance taken for the Peace againſt all the Kings people, and to appear at the next Seſſions by Superſedeas out of the Chancery, teſtifying ſurety found there againſt all the King's people for ever, will diſcharge the Appearance of the next Quarter Seſſions. Otherwiſe it is, if it be but until a day certain. *Lam.* 112.

Who ſhall be amerced for default of Appearance, and who not, *Vide* Amerciaments, Releaſe.

Appeachment. Vide *Approvers.*

Appeal.

Juſtices of Peace can take no Appeal of any Felony. *Lam.* 550. *Stamf.* 65. 2. *Quære tamen.*

Appeal of Robbery. *Vide* Attainder.

Apprentices.

No perſon, unleſs under one and twenty years of age ſhall be compelled to be an Apprentice.

No Merchant, Mercer, Draper, Goldſmith, Ironmonger, Embroiderer, or Clothier in a Corporate Town can take an Apprentice, except he or his Father hath Free-hold Land of forty pounds a year value.

If in a Market Town, not corporate, the Apprentice, or his Friends muſt have three pounds *per annum*, Freehold.

Such Artificers as Smiths, Wheel-rights, &c. may take for Apprentices the children of Parents that have no Land.

Every Cloathworker, Fuller, Sheerman, Weaver, Tailor,

Tailor, and Shooemaker that keeps three Apprentices ſhall keep one Journey-man, and for every Apprentice above three, one Journey-man, upon pain of ten pounds for every default.

Watermen may take Apprentices.

Hat-makers but two at a time, and not under ſeven years old. 8 *El.* 11. 1 *Jac.* 17. Nor make any Felts or Hats of any Foreign Wool, unleſs they have been Apprentices ſeven years, under five pounds penalty. So of a Tanner; ſuch as have been Apprentices may work in their Trade in any place out of a Corporation, and in a Corporation, if hired.

An Infant may bind himſelf Apprentice voluntarily; and by cuſtom of *London*, being above twelve years old.

One thought fit to be bound as an Apprentice, upon complaint made, and refuſing to be bound, ſhall be committed till he will be bound. 5 *El.* 4. *Dal.* 119.

Upon complaint of an Apprentice, one Juſtice may take order betwixt his Maſter and him, and for want of conformity in the Maſter, may bind him to appear at the Quarter Seſſions, and to be diſcharged by four Juſtices. If default be in the Apprentice, it ſeemeth one Juſtice may ſend him to the Houſe of Correction. *Dal.* 120.

The Juſtice of Peace may iſſue out a *Capias* againſt an Apprentice, that departs into another County, and cauſe him to give ſecurity.

The Trade of a Cook, Brewer, Baker, Tailor, may be uſed privately for the uſe of a Family without being Apprentice ſeven years within the *Stat.* 5. *El.* 11. *Co.* 54.

So of a Tallow-chandler, Baker, Brewer, or other lawful Trade, without ſelling for gain. 8 *Co.* 129.

If an Apprentice, or Servant, under the age of eighteen years, embezzle their Maſters Goods (not delivered to them, or committed to their charge) above twelve pence value; it is Felony, elſe Pety Larceny, if under, by 21 *H.* 8. 7.

aſſent of two Juſtices is ſufficient to the Church-wardens, or Overſeers, or the moſt of them, to bind Apprentices the ſons of poor Parents, not able to keep and maintain them, till twenty four years of age, or their Daughters till twenty one years of age. 39 *El. ca.* 3: 43 *El. ca.* 2. *Dal.* 143. *Lam.* 331. 21 *Jac.* 28. continued by 1 *Jac c.* 25.

Diſpoſition of Money given for putting forth Apprentices, and the nomination and placing of them muſt be by the Corporation, and in Towns not corporate by the Parſon or Vicar, Conſtable, Church-warden, and Overſeers for the time being, or moſt part of them, the ſame to be according to the will of the Giver: and any of the Diſpoſers forbearing and refuſing to diſpoſe of the money, whereby it is not diſpoſed, ſhall loſe three pounds, ſix ſhillings, eight pence, one moiety to the Poor of the Pariſh, the other to the Informer. 7 *Jac. cap.* 2.

Diſpoſers of ſuch money given for Apprentices, are to take Bond with two Sureties of ſuch Maſter or Miſtreſs, for ſuch money as they ſhall ſo receive, for the repayment thereof at the end of ſeven years, or three months after, 7 *Jac. cap.* 3. Or if the Apprentice die within ſeven years, then to repay the money within one year after ſuch Maſter or Miſtreſs death. 7 *Jac. cap.* 3.

The Maſter or Miſtreſs dying within ſeven years, the diſpoſers are with the ſaid money to put out the ſaid Apprentice to ſome of the ſaid Trade; to ſerve out the reſidue of his five years. 7 *Jac. cap.* 3.

Money given for putting forth Apprentices, is to be diſpoſed within three months after the receit. *Ibid.*

None above fifteen years old are to be placed by the diſpoſers, and thoſe to be of the poorer ſort; and for want of ſuch they may chuſe others of the Pariſh next adjoyning. *Ibid.*

Diſpoſers of money for Apprentices are to account before two Juſtices next adjoyning yearly in Eaſter week, or within a month after: and within ten days after

after ſuch account made, muſt deliver all ſuch money and bonds remaining in their hands, to ſuch as ſucceed in their rooms. *Ibid.*

He is no Apprentice, if he be not retained by Indenture, and by the name of an Apprentice expreſly. *Cro.* 185. b.

Breakers of truſt for diſpoſing money given for Apprentices are to be examined and redreſſed by Commiſſion out of Chancery returnable within three months, and the party grieved by an act of the Commiſſioners, is to be relieved upon his Bill in Chancery. *7 Jac. cap.* 3.

Certificate to the Head Officer of a City or Borough, that the Parents of an Apprentice to a Merchant, Mercer, (Draper, Goldſmith, Ironmonger, Embroiderer, or Clothier, may diſpend forty ſhillings freehold, muſt be under the Hands and Seals of three Juſtices where the land lieth. *5 El. c.* 4.

Apprentice is to be diſcharged by four Juſtices in open Seſſions: but not without cauſe, or agreement. *Dal.* 120.

The diſcharge of an Apprentice is to be inrolled by the Clark of the Peace. *5 El. c.* 4. *Vide plus* in Labourers.

A Maſter putteth his Apprentice into apparel, he cannot take it away, though he part with his Apprentice. *Dal.* 153. Br. *Tit.* 93.

Every Houſholder having half a plough land in tillage, may take an Apprentice betwixt the age of ten and eighteen to ſerve in Husbandry, which muſt be by Indenture. *5 Eliz. cap.* 4.

Every Houſholder in a City, Borrough, or Town Corporate, exerciſing any Trade, may retain the Son of a Freeman, not occupying Husbandry, nor being a Labourer, as Apprentice for ſeven years at leaſt.

Approvers or Appeachers.

Goaler, Keeper, or Under-keeper by pain compelleth his priſoner to become an appeacher of others, it is Felony, 14 *E.* 3. *cap.* 10.

Juſtices of Peace can take no Appeal of an Approver. *Lam.* 550. *Stamf.* 114. 2.

One Felon accuſeth another before the Juſtices of Peace; they may take his Confeſſion and reprieve him, and ſo proceed againſt the other. *Lam.* 551.

Appeal of an Approver entred before the Coroner. 3 *Inſt.* 121.

An Approver not bailable, by *Weſtm.* 1. But he that is appealed, being no common Thief, is. *Fitz.* 250 *d.* So after the Approvers death, *&c.*

The Juſtices of Peace have no Warrant to aſſign a Coroner for the Approver, yet it is reaſonable for a Juſtice of Peace to take his confeſſion, and commit him to the Goal, and grant his Warrant for apprehending the accuſed.

One cannot be an Approver but in Felony, or Treaſon. 9 *H.* 6.

Nor but upon Inditement. 1 *H.* 7. 5.

It muſt be of ſuch offence as he himſelf committed with the Appellee.

The Coroner muſt be aſſign'd by the Court to take and record what the Felon ſaith; or called by the Felon (approver) himſelf.

Archery.

Juſtices of Aſſiſe, Goal-delivery, and of the Peace, and Stewards of Leets have power to enquire, hear and determine of the Stat. 33 *H.* 8. *c.* 9. and alſo by their diſcretion examine all perſons lacking and not having bows, ſhafts and arrows, according to the form of the ſaid Statute, *viz.* being under ſixty years, and have not

not in his houſe bow and arrows; or have not uſed ſhooting. And every man-child between ſeven and ſeventeen years of age, not having a bow and two ſhafts, and above ſeventeen years, four ſhafts, he loſeth for every month ſix ſhillings, eight pence. *Lam.* 481. 33. *H.* 8. *cap.* 9.

Arrow-heads well boiled, or brazed, *&c.* upon pain of Fine. *Ib.*

Vide 8. *El.* 10. for Bows.

Vide Long-bows.

Armor.

Any (except the Kings Officers and their company doing their ſervice) riding or going armed, or bringing force in affray of the people, are to be impriſoned, and loſe their armor. 2 *E.* 3. *cap.* 3. *Dal.* 37. *Cro.* 76. a. 3 *Inſt.* 162.

Juſtices of the Peace not looking to the execution of the Statute of fearing the Country with going or riding armed, upon enquiry by the Judges of Aſſize, are to be by them puniſhed. 2 *Ed.* 3. *cap.* 3.

The counterpain of the Indenture of armor to be kept by the Clark of the Peace. 4 & 5 *Ph.* & *Ma.* *cap.* 2.

The Statute of 4 & 5 *P.* & *M.* concerning keeping of horſes and armor, with the penalties thereof, is repealed. 1 *Jac. c.* 25.

Armor and Munition of a Recuſant convicted, being in his own poſſeſſion, or at his diſpoſe, other than ſuch as ſhall be thought meet for the defence of his perſon and houſe, by warrant of four Juſtices at the Quarter Seſſions, are to be ſeiſed and kept at ſuch place as the four Juſtices at the Seſſions ſhall appoint, at the coſt of the owners; and they, concealing or diſturbing the delivery of it, loſe the armor and munition, and by warrant from any Juſtice of Peace, to be impriſoned three months without bail. 3 *Jac. c.* 5. Re-

cuſant having his armor ſeiſed, is to be charged with ſuch armor and horſe, as he and others of his Majeſties Subjects ſhall be commanded to ſerve with at muſters. 3 *Jac. c.* 5.

Any Juſtice of Peace may arreſt any (except the Kings Officers, and ſuch as do him ſervice) that go armed, and bind them to the peace, or good behaviour. *Cro.* 76. a. *Dal.* 37. *Lam.* of Conſt. 13.

A Juſtice of Peace may cauſe weapons to be taken from priſoners brought before him. *Dal.* 38.

No ſervant in Husbandry, Artificer, Victualler, or Labourer, ſhall wear Sword or Dagger. 12 *R.* 2. *c. Dal.* 38. *Cro.* 76. b.

A Sheriff or Bailiff for the execution of Juſtice may carry Dags or Hand-guns to make execution. 3 *Cro.* 22.

Arraignment.

Arraignment is commonly a compulſory coming of one indicted of a matter touching life or ſuch hainous offence, and a pleading not guilty. *Lam.* 546.

It is holding up the hand at the Bar, to make the party the better ſeen and known.

One coming in freely, and indicted of an inferior offence, may be arraigned. *Lam.* 547.

One arraign'd of Felony, if his caſe will ſerve, may plead a juſtification, or matter in Law. *Lam.* 547. And the Court ſhall aſſign him Counſel. *Cro.* 110. *nu.* 5.

He that is arraign'd of Felony ſhall have leave to bring him into the Court, who ſold the thing to him, and the Court ſhall aſſign him Counſel. *Cro.* 100. 2. *nu.* 3. *Vide plus* in Attainder.

Arreſts.

An Arreſt is a certain reſtraint of a man's perſon, depriving it of its own will, and liberty, and binding it to

to become obedient to the will of the Law. *Dal.* 466. *Lam.* 93 *Cro.* 38. a. *nu.* 1.

A Bailiff or Sheriff ſays to one being preſent, I arreſt you; tho he touch him not, this is a good Arreſt, and if the party go away, it is a reſcue.

All lay perſons under the degree of a Baron, or Peer of the Realm, are ſubject to an arreſt. *Lam.* 93. *Dal.* 466.

Eccleſiaſtic perſons not attendant upon divine Service, may be arreſted for the Peace. *Lam. ibid. Dal.* 466.

Conſtable, or Juſtice of Peace coming to arreſt an affraier, if he flie into another houſe, they may in freſh ſuit break open the door, and take him: So if he flie into another County. *Lam.* 134. *Dal.* 36.

A common cheater at Dice comes to the Houſe of a Juſtice of Peace, and cheats at play, and goes; he may be arreſted, and brought before that Juſtice of Peace without an Officer. 1 *Cro.* 235.

Arreſt in the night is good, elſe the party may eſcape. 9 *Co.* 66. a.

Arreſt by the Sheriff after the force upon a Writ upon the Stat. of *Northampton* to the Juſtices of Peace and Sheriff, to remove a force. 3 *Cro.* 294.

So by the Under-ſheriff. *Ib.*

Arreſt of a perſon armed (not the King's Officer) by the Juſtice of Peace. 2 *Ed.* 3. 1. *Vide* Armor.

All that come to the Seſſions for publick ſervice, or upon compulſion, upon complaint and examination of the matter by oath, ſhall be freed from any Arreſt upon original proceſs. *Lam.* 402.

Arreſt on a Sunday in mean proceſs, or otherwiſe at a Subjects ſuit, void by 2 *Car.* 2.

Any man may arreſt him that gave the wound in an affray, and detain him till the danger be over. *Dal.* 37.

Common fame not ſufficient to arreſt for Felony, where none is committed. 3 *Inſt.* 118.

Any man may arreſt an offender, againſt 33 *H.* 8. about Guns, and carry him before a Juſtice of Peace. *Dal.* 65.

None arrested by Commission, but by vertue of a Precept, or Commandment out of some Court of Record, in actions of Debt, *&c.*

Bailiffs, Serjeants, Sheriffs are prohibited to carry persons arrested to drinking houses without their consent, and to impose any charge upon them, but what they call for, by 22,23 *Car.* 2.

The next Just. or the Sessions, may adjudge what is fit to be taken for Lodging and other Expences, while under arrest, before Imprisonment. *Ib.*

An Arrest by command of the Just. of one in his presence, is an Arrest by the Justice himself. *Dal.* 459.

Bailiff taking above four pence for any Arrest, shall forfeit forty pounds. 23 *H.* 6. *ca.* 10. *Dal.* 71.

The Officer ought to require the party to come and find surety of the Peace, before he arrest him, by the opinion of 5 *Ed.* 4. 31. *Lam.* 90. *Dal.* 271.

If one required by the Officer upon warrant to find Surety of the Peace, refuse, the Officer by vertue of his Warrant may convey him to prison. *Lam.* 92. *Dal.* 271.

In all criminal causes, where one incurreth loss of member, or of life, every man may arrest him, whether he hath Warrant or not. *Dal.* 468. But where a private man arresteth any in the cases aforesaid, he ought to deliver him to the Constable, or some Officer. *Dal.* 469.

When a Felony is committed. 1. Any man that suspects another may arrest him. 2. If there be common fame that he committed the Felony. 3. If he be prosecuted with hue and cry. 4. If he be in company of the Offenders. 5. If he apparently go about to commit a Felony. *Dal.* 468. *Vide Cro.* 99. b. 12. *Co.* 92.

A man is slain, or a Felony committed, and an innocent party is arrested for the same; he cannot be delivered but by order of Law. *Cr.* 40. b. *nu.* 20. *Lam.* 233.

A Constable taking an affrayer, may not imprison him

him in his house; but in the Stocks. *Lam.* 133. *Vide* Riot, Sheriff, Prison, Armor.

Artificers. Vide *Labourers.*

Assault.

Assault cannot be made without the offer of some hurtful blow, or at least of some fearful speech. *Lamb.* 126. *Dal.* 282.

To rebuke a Collector with foul words, so that he depart with fear, without doing his Office, was taken for an assault. *Lam. ib.*

To strike at a man, although he were neither hurt, nor hit with the blow, is an assault. *Lam. ib.*

Maker of an assault, battery, or other trespass upon the body of another, is to be fined.

Servant, or Workman, convicted by confession of two witnesses, before two Justices of Peace, of maliciously assaulting his Master, Dame, or Overseer, is to be imprisoned a year, and any other corporal punishment saving life and member. 5 *Eliz. cap.* 4. & 5. *Dal.* 123. *Cro.* 84. 2.

If another assault me, if I may escape with my life, it is not lawful for me to beat the other. *Dal.* 284.

An attempt is made to beat a man, his wife, father, or mother, or any of his children within age, he may lawfully use force to resist it, and may justifie the beating of the other. *Dal.* 284. Yet by opinion of *Elyot*, 12 *H.* 8. *fol.* 2. b. it is not lawful, except there be such peril as another is like to perish if there be no help. *Dal.* 285.

A man taketh away my goods which are in my possession, I may take them again with force. *Cro.* 65. b. *nu.* 60, 61. & 137. 2. *Dal.* 285. But I must first lay my hands on him, and disturb him, and if he will not leave, then I may beat him, rather than he shall have my goods. *Dal.* 285.

Running at one with a Spit, but missing, a great assault, but no battery: Assault and Threatning, a Breach of the Good Behaviour. 3 *Cro.* 86.

No Assault to thrust one in a great Croud.

Assembly unlawful. Vide *Unlawful Assembly.*

Assize of Bread and Beer.

Any Brewer, or Baker, or Tipler, breaking the Assize of Bread and Ale, to be fined. 13 *R.* 2. *cap.* 8. *Lam.* 459.

Any Officer taking fine for breach of the Assize of Bread and Ale, where there ought to be a corporal punishment, is to be fined. 13. *R.* 2. *cap.* 8. *Lam.* 459.

Attainder.

One attainted of Felony, may be arraigned for Treason committed before or after the Attainder. *Lam.* 557, 558.

One attainted of Felony, may be sued in an action of debt upon obligation, and execution shall be had. 3 *Cro.* 517.

One attainted, and pardoned, may sue for a wrong done before; or purchase Land. 3 *Cro.* 516.

One attainted upon an appeal of Robbery, may be arraigned upon an Appeal of Robbery at anothers suit. *Lamb.* 558.

One attainted of Felony by standing mute, may after be arraign'd of another Felony. *Lam.* 558.

One attainted of Felony cannot after be arraign'd for another Felony, so long as the first is unpardoned; unless it be in the cases before. *Lam.* 557.

After the Attainder the Felons grant of goods or lands bindeth all persons, except the Lord to whom they escheat. *Dal.* 405.

Indictment

Indictment is, when an offence is found by the great Inqueſt, or other Jury of Inquiry.

Conviction is, when the offender is found guilty by a ſecond Jury, having put himſelf to tryal.

Attainder is, when after ſuch conviction Judgment is given againſt the Offender. *Dal.* 406.

One Attaint of Felony by Outlawry, or in a Præmunire, cannot be done with as with a common Enemy (the ancient Law) and kill'd by any man. *5 El. 7 Co.* 14. a.

If the Attainder againſt the principal be reverſed, it is ſo againſt the Acceſſary.

Rights (of Entry, tho not of Action) given to the King by Attainder for Treaſon: ſo conditions perſonal choſes in Action, as Statutes, Recogniſances, obligations. 3 *Co.* 3. a.

But a condition or proviſo inſeparably annexed to the perſon and mind of the party; as of a proviſo, if he ſhall be minded to revoke certain uſes, and ſignifie his mind in writing, *&c.* there it is not in the King by Attainder. 7 *Co.* 13. a.

Grant of Wine-licenſe taken in anothers name in truſt, forfeited by Attainder of Felony. *Hob.* 214.

A Dignity intailed (the Earldom of *Weſtmorland*) forfeited by Attainder for Treaſon, being a Hereditament at Common Law. 7 *Co.* 34.

So of an Annuity being of inheritance. *Ib.*

The Chief Juſtice may, upon view of the body of one killed in open Rebellion, make a Record thereof as Coroner, returned into the Kings Bench; and the Land and Goods ſhall be forfeit. 4 *Co.* 57. b.

A Condition that the Eſtate ſhall ceaſe upon delivery of a Ring, well performed by the King, to whom it is forfeited by Attainder, or Outlawry.

A Wait-

A Wait-lying. Vide *Way-laying.*

Averments.

No man ſhall be received to make averrment againſt a record, being of ſo high a nature, that it ſhall not be tried but by it ſelf. 12 *Co.* 24.

As in caſe of challenging of a Sheriff for return of a Jury being diſcharged two days before, the Record being otherwiſe. *Ib.*

Averrment good againſt acts miniſterial, as thoſe of a Sheriff, or other Officer. 2 *Cro.* 12.

Againſt a Sheriffs return. 2 *Cro.* 507.

Averrment that ſtands with the Record is good; as againſt a Fine upon Releaſe, that the Conuſee had nothing at the time of the time. 4 *Co.* 71. b.

Averrment not to be excepted out of a Statute. *Vide* Commiſſion, *&c.*

Badgers and Drovers.

A Badger is one that buys Corn, or Victual, in one place, to carry into another.

A Drover is he that buys Cattle in one place to ſell in another.

None may be either of theſe but a married man, and a Houſholder, thirty years old, or above, and licenſed, under five pounds penalty, by 5 *Ed.* 6. 14. So he muſt have dwelt three years in the County, ſelling in open Fair, or Market for proviſion of Houſes not prohibited to Badgers licenſed by 5 *Ed.* 6. againſt ingroſſing.

If a Drover go with his Cattle on the Lords day, he forfeits twenty ſhillings. 1 *Car.* 1.

A Badger muſt not buy Corn or Grain out of a Fair or

or Market, without expreſly licenſed, under five pounds penalty. 5 *El.* 12.

Licenſe to Badgers, and Drovers, and Loaders of Corn, muſt be in open Seſſions, and there regiſtred and kept by the Clerk of the Peace, 5 *El. c.* 12. *Lamb.* 610. And but for a year, and not to a Woman. *Cro.* 72.

Offences againſt the Statute of Badgers and Drovers may be enquired of as well by examination of Witneſſes, as by preſentment. 5 *El. cap.* 12.

The forfeiture due to the Informer upon the Statute of Badgers and Drovers, is to be levied by *Fieri facias*, or *Capias*, awarded by the Juſtices of Peace. 5 *El. cap.* 12.

Clark of the Peace muſt make and write all Licenſes made to Badgers, Laders, and Drovers, and keep a Book to regiſter the ſame, and the Recognizance taken before the Juſtices of Peace, which recognizance muſt be [*That they ſhall not do any thing contrary to the Statute.* 5 Ed. 6. c. 14. *provided againſt foreſtallers,*] and therein write the Names and Sirnames, and places of the licenſed, with a brief entry of the Licenſe, day, time, and place where it was granted, and bring the ſame to every Seſſions, taking for the Licenſe twelve pence, for the Recogniſance eight pence, and for regiſtring four pence. 5 *El. cap.* 12.

Bailiffs.

Bailiffs for execution of Juſtice, may carry a Handgun, or Dag, to make execution, notwithſtanding 33 *H.* 8 5 *Co.* 7.

Bailiffs may not carry perſons arreſted to drinking Houſes without their conſent, nor put them to charges for what they call not for: nor keep Alehouſes themſelves. *Vide* Alehouſes. 22, 23 *Car.* 2.

Bailiff was puniſhable in falſe impriſonment, if he compel the party to go before any other Juſtice than he chuſeth. *Lam.* 89. 94.

But

But now the Law is adjudged to be, that the Bailiff or Conſtable ſhall chuſe the Juſtice. *Dal.* 49. and *Cr.* 59. b. *Foſters* Caſe.

As the Bailiff may not compel him that is arreſted for ſurety of the Peace, to go before him that granted the warrant: ſo it is not reaſonable that the Bailiff ſhall be drawn out of the diviſion, and limit, where they both dwell. *Lam.* 93.

A Bailiff arreſts a man without a warrant for the Peace, and afterwards procures one, he is puniſhable in falſe impriſonment. *Dal.* 464. *Cro.* 149. 2. *Lam.* 90.

A Bailiff arreſts one by Warrant for the Peace, the Juſtice will not bind the party, no action lyeth againſt the Bailiff. *Lam.* 91.

Two Juſtices of Peace, one being of the Quorum, may give unto the Bailiffs of Franchiſes before they exerciſe their Offices, the Oaths of 1 *El.* of Supremacy, and 27 *El.* touching their Offices. 27 *El. cap.* 12.

Bailiff taking above four pence for an arreſt, is to forfeit forty pounds. 23 *H.* 6. *cap.* 10. and loſe treble damage to the party damnified. *Vide* Fees.

Bailiff of the Hundred that executech not a Warrant againſt any Defendant in the Sheriffs Court, ſhall loſe forty ſhillings. 11 *H.* 7, *c.* 15. *Vide plus* in Warrants.

A Bailiff for the execution of Juſtice may carry a Hand-gun, or Dag, to make execution, notwithſtanding 33 *H.* 8. 5. *Co.* 72. 2.

Bailment.

Bailment, Mainpriſe, or Replevin, is the ſaving or delivering a man out of Priſon before he hath ſatisfied the Law; ſo by finding Sureties to anſwer, and to be juſtified by the Law. *Lam.* 340. *Dal.* 437.

He that is bailed, is delivered into his Sureties hands to be kept. *Cro.* 152. b. *nu.* 6. *Stam.* 65. 2. *Dal.* 437.

If the Sureties doubt the eſcape of the Priſoner bailed,

ed, a Juſtice of Peace upon prayer may diſcharge the Sureties, and commit the party to priſon. *Dal.* 437. *Cro.* 153. 2. *nu.* 13. & 157. 2.

A Juſtice of Peace may cauſe the Bailed to find better Sureties. *Cro.* 152. b. *nu.* 4. *Dal.* 437.

It is requiſite to take two Subſidy-men for Bail, eſpecially if it be for Felony, or ſuſpicion thereof. *Dal.* 437.

To detain a priſoner that is bailable, is finable. *Dal.* 437.

To bail one not bailable, is a negligent eſcape, and finable. *Dal.* 438.

A Juſtice of Peace bailing contrary to the Law, or not certifying the bail and examination of the Felon, is finable by the Juſtices of Goal-delivery. *Lam.* 345. 1. & 2. *P. & M. C.* 13. *Cro.* 167. b. *Dal.* 438.

Juſtices of Peace, and Coroners in *London* and *Middleſex*, and all other Cities, and Corporations, have power to bail Priſoners and Felons as they have been accuſtomed,

Where one is bailable, he muſt offer Sureties. *Dal.* 437.

For what Offences a man is not bailable by a Juſtice of Peace by the Statute of W. 1. 3 Ed. 1. 15. Cro 156. 2. Lam. 345. *Vide* 1, 2 P. & M. *a.*

1. Abjured the Realm. *Dal.* 441.
2. Approver or Appellor. *Ibid.*
3. Appealed by an approver, except he be of good name, &c. *Vide* Approver.
4. Burning a houſe felonioufly. *Ibid.*
5. Excommunication taken at the Biſhops requeſt. *Ibid.* Yet upon conforming, a Writ of *Cautione admittenda* lies.
6. Felon taken with the manner. *Ibid.*
7. A known Thief, and defamed. *Ibid.*
8. Outlawed. *Ibid.*

9. Priſon-

9. Priſon-breaker. *Ibid.*

10. Traitor to the King himſelf. *Ibid.*

11. Falſifier of the Kings money. *Ib.*

12. Counterfeiter of the ſeal. *Ibid.*

13. Attainted or convicted of Felony. *Ibid.*

14. Acceſſary to two Felonies, if one principal be attainted. *Dal.* 443.

15. Death of a man, if he be principal. *Ib.*

16. Taken upon proceſs of Rebellion iſſuing out of Chancery. *Lam.* 347. *Dal.* 444.

17. Arreſted by Proceſs, Writ, Bill, or Warrant, in an action perſonal. *Ibid.*

18. Perſons convicted of Felony, praying Clergy, and reprieved. *Cro.* 154. a. *nu.* 2. *Dal.* 442.

For what Offences a man is not Bailable by a Juſtice of Peace.

A Juſtice of Peace is not to Bail, but in Cauſes which he may hear and determine. *Lamb.* 347. *Dal.* 444.

Murder, or any other Homicide. *Dal.* 440.

Confeſſing the fault of Manſlaughter. *Ibid. Lamb.* 34.

One *Poynes* found guilty of Manſlaughter before the Coroner, certified into *B. R.* prayed to be bailed; denied, for it may be Murder. 1 *Roll.* 268.

Taken in the manner for killing. *Dal.* 440.

Known to have killed a man. *Ibid.*

By the King or his Privy Council. *Dal.* 440.

By the abſolute, not ordinary command of the King's Juſtices. *Ibid.* So by the Chancellor.

For Treſpaſſes in the Forreſt. *Weſt.* 1. *cap.* 15.

Confeſſing the Felony whereof he is accuſed. *Cro.* 152. b.

Impriſoned for Surety of the Peace. 23 *H.* 6. *c.* 10. *Lamb.* 246.

Special Commandment of any Juſtice. 23 *H.* 6. *cap.* 10. *Lamb. ib.*

Silenced

Silenced Miniſters not bailable. 14 *Car.* 2. 14.

Where Bailment is taken away by Statute. Vide *Law.* 349. *Dal.* 445.

If a Juſtice of Peace commit one for Felony (for which by Law he is not bailable) generally, the *Mittimus* ſhewing no cauſe, and other Juſtices bail him, they are finable: they ought to inform themſelves at peril of the truth of the matter.

No Bail to be taken for an Offender againſt 13 *Car.* 2. 5. of Petitioning (in great numbers) King or Parliament.

There is an exception (in the Statute for *Hab. Corpuses*) of imprisonment for criminal matters, and detainment (*inter alia*) by Warrant of Juſtices of Peace, for offences not bailable by Law: ſo a Proviſo that perſons committed by a Juſtice of Peace upon ſuſpicion of Pety Treaſon, or Felony, or charged as Acceſſary before the Fact thereto, plainly expreſſed in the Warrant, ſhall not be removed or bailed by vertue of (or otherwiſe than they might have been before) the Act. 31 *Car.* 2.

One in Execution is not bailable by Law. 2 *Cro.* 108.

For what Offences a Man is Bailable.

Taken for light ſuſpicion. *Dal.* 441.

Indicted of Pety Larceny, not being formerly guilty of another. *Dal.* 442.

Charged. 1 With the receit of Thieves, or Felons. *Dal.* 443.

2. Of commandment, force or aid in Felony done. *Ibid.*

3. With Treſpaſs that toucheth not loſs of life or member: by *Weſt.* 1. 15. *Ib.* (if not prohibited by ſome later Statute appealed by an Approver, being no common Thief, nor defamed after the death of the Approver. *Dal.* 444.

Indicted of Manslaughter, and acquitted. *Lam.* 347.

Acquitted of murder or manslaughter at the Kings suit, bailable during the year. 3 *H.* 7. *cap* 1. *Lam.* 347.

Convicted of Felony, and in prison, gets his pardon, bailed till the next Goal-delivery, that he may plead it.

Imprisoned by process out of the Sessions upon penal Laws, not forbidding Bail, bailable out of the Sessions by two Justices, one being of the Quorum. *Lam.* 348. *Dal.* 443.

Accused of Homicides, which are not Felony.

Accessary to Felonies. *Dal.* 443.

If they be found of good fame, until the principal be convicted or attainted: but after the principal is attainted, he is not bailable, except he plead not guilty, or other plea. *Ibid.*

Principal in Burglary. *Ibid. Stamf.* 74.

Principal in an Indictment of Robbery. *Dal.* 443.

Principal in an Appeal of Robbery. *Dal.* 443.

Attached by Sessions process upon Indictment of Trespass may be bailed by one Justice of Peace, to appear at the day to answer the Indictment; and may make his Supersedeas, *de cap. Indict.* and so of the Exigent. *Dal.* 443, 444.

In every Bailment which must be by two Justices, one of them being of the Quorum, the Justices must be present together at the time of Bailment, who before Bail taken must examine the prisoners, and receive the Information of them that bring them: all which with the Bailment they must put in writing, signed or subscribed with their own hands, and certified at the next Goal-delivery to be holden in the County. 1 & 2 *P.* & *M. C.* 13. *Dal.* 439.

The said Justices have authority to bind all persons that can give evidence, to appear the next Goal-delivery to give evidence against the party at the time of his Tryal. *Dal.* 303.

Some Statutes not only take Bail from the Offender there-

thereof upon their ſolemn conviction after Judgment; but alſo upon the record of one or two Juſtices, or by examination or proof of Witneſſes, or other ſuch private tryal had before them. *Lam.* 349. For the form of Bailment. *Lam.* 252. The form of the Liberate. *Dal.* 517. *Lam.* 352.

Bakers. Vide *Aſſize of Bread.*

Barettor.

A common Barettor is he, who is either a common mover, ſtirrer up, or maintainer of ſuits in Law in any Court, or quarrels in the Country. *Dal.* 38. *Lam.* 440. *Cro* 84. 2. and is to be bound to his good behaviour, and impriſoned. *Lam.* 440. *Vide plus Dal.* 38. *Coke* 8. 36.

So he may be indicted at the Aſſiſes, or Seſſions, and fined. 8 *Co.* 36, 37.

So he is puniſhable by Information upon Oath (or Articles) before one or more Juſtices of Peace. *Ib.*

One or two Cauſes make not a Barrettor, but it muſt be a common courſe and habit to make him puniſhable.

Lending ſmall Summs upon Bond, and keeping them, and then bringing actions upon them, the money having been paid: ſo paying the money again to the Sureties, that he might ſwear in his Anſwer to a Bill in Chancery, that the obligor never paid the money.

This Offender was ſet in the Pillory.

Bargain and Sale. Vide *Inrollment.*

Bark of Trees. Vide *Leather.*

Baſtardy.

Two Juſtices of Peace, one being of the Quorum, in or next to the Parith where a Baſtard left to

the charge of the Pariſh, or likely to be chargeable, to born, are to take order for the relief of the Pariſh, keeping of the child, and puniſhment of the reputed father and mother. 18. *El.* 3. 7. *Jac. c.* 4. *Dal.* 47.

The reputed father and mother not performing the order ſet down by two ſuch Juſtices, the delinquent is to be ſent to the Goal without bail, except they put in ſureties to perform the order, or appear at the next general Seſſions of the Peace. *Dal.* 48.

If the Juſtices of Peace do not agree upon an Order, it is to be referred to the Bench. *Dal.* 26. 40.

Quadraginta ſeptimanæ ſunt legitimum tempus mulieris ad conſtitutum. Coke Inſtit. 123. Dal. 41.

But a woman was delivered ten months after the death of her Husband, and the child adjudged no baſtard, the woman having been miſuſed. 2 *Cro.* 541

The mother may be examined upon oath, concerning the reputed Father, the time and other circumſtances. *Dal.* 40.

By 7 *Jac. cap.* 4. the mother is to be committed to the Houſe of Correction for a year: but not till after delivery, and the child living. *Dal.* 48.

If ſhe offend the ſecond time, ſhe is to be committed to the Houſe of Correction, and there remain till ſhe find ſureties for her good behaviour, and not to offend again. 7 *Jac. c.* 4 *Dal.* 48.

If ſhe conceal the death of her baſtard, and do not prove by one witneſs that it was ſtill-born, it is murder. 21 *Jac.* 17.

All Juſtices of Peace in their ſeveral limits, and in their Quarter Seſſions, may do all things concerning the Statute 18 *El.* for Baſtardy, which is limited to the Juſtices of Peace in ſeveral Counties. 3 *Car. c.* 4.

Before which Statute they could make no Original Order. Appeal to them at the Seſſions, the order there is final. *Vide infra Pridg. Caſe*, &c.

Reputed father to be bound to the Good Behaviour till the child be born. *Dal.* 39.

If the putative father ſhall either before or after the birth of the child, by practice of any other, convey himſelf away, or cauſe the mother to run away, or leave her child, ſuch may be bound over to the next Goal-delivery or Quarter Seſſions. *Dal.* 39.

The Putative fathers of Baſtard children, leaving their children upon the Pariſh, the Church-wardens and Overſeers for the Poor of the Pariſh where the child is born, may ſeiſe and take ſo much of the goods, rents, and profits of the Lands of ſuch reputed father or mother as ſhall be ordered by two Juſtices of the Peace, for, and towards diſcharge of the Pariſh, for providing for ſuch Baſtard, and by Order of Seſſions, may ſell the ſaid goods, or ſo much thereof as the Court ſhall think fit, and ſo much alſo of the rents and profits of the lands for the ſame purpoſes, 14 *Car.* 2. *cap.* 12. *Dal.* 14.

Baſtard is no child within the Statute of Wills. 1 *Inſt.* 123.

Vide plus in houſe of Correction.

Caſes and Reſolutions upon the Statutes of 18 *Eliz. cap.* 3. touching Baſtard-Children: and upon 43 *Eliz. cap.* 2. concerning the Poor, and proviſion for them.

Hamond's Caſe, *Mic.* 3 *Car.* Kings-Bench.

Baſtard.

Hamond having got a child, the examination thereof was referred to the two next Juſtices according to the Statute: upon which the Juſtices make an order,

which *Hammond* refuſed to perform; thereupon they cauſe him to enter into bond to appear at next Seſſions, where he appeared, the Juſtices there made another Order; and becauſe he refuſed to perform this, they committed him to priſon. Reſolved, the Impriſonment was illegal, being not warranted by the Statute, but they ought to have proceeded againſt him upon his bond.

By *Hide* Chief Juſtice, the Juſtices ought not to commit for not performing their order of Quarter Seſſions, where they alter the former Order made by the Juſtices, who had firſt the examination; for by the ſecond Order the firſt was made null.

Concerning Providing for Baſtard Children.

Smith's Caſe. *Mic. 6. Car. R. B. R.*

IT appeared by proof before two Juſtices, that *Smith* was the reputed father of a Baſtard child, and the Juſtices made an Order for maintenance of the child, and for diſcharge of the Pariſh according to Law; and afterwards committed him for not performing the Order. Reſolved the Commitment was void, and that the Juſtices ſhould have taken bond of him to appear at next Seſſions.

The Caſe was further.

Sir *Henry Pool*, and Doctor *Standard* being the two next Juſtices did examine this matter, upon which it then appeared, that one *Feild* was the reputed father, & made their Order againſt *Feild*, that he ſhould maintain the child, diſcharge the Pariſh, and enter into bond for his appearance at the next Quarter Seſſions, and to abide their order there made: He refuſed to enter into bond, but appeared at the Seſſions, and there ſhewed that *Smith* was the reputed father; the former order was certified, but the Juſtices did nothing upon it, but

granted

granted new reference unto Doctor *Standard* and Maſter *Gregory*, Sir *Henry Pool* being gone out of the Country: and they made the laſt order contrary to the former; and by this they charged *Smith* as the reputed father. Reſ. that the Juſtices at their next Quarter-Seſſions ought to have made a final order, or to have affirmed, or diſallowed the former order. And then afterwards have granted a reference to the ſame next Juſtices which made the firſt order, to conſider better of it, and of the proof; and this had been according to Law.

Reſolved, that after an Appeal to the Seſſions, and the Juſtices there do repeal the firſt order, the matter then is as *Res integra* before them; and they may then grant a reference to the two next Juſtices.

Nota. That the Recognizance ought to be in the diſjunctive, *viz.* To perform the Order by them made, or to appear at the next Quarter-Seſſions, and to abide the Order there.

Nota. One Juſtice of Peace by his Warrant may commit; but the *Mittimus* being ſhewed, and it not purſuing the Statute, and the Recognizance not being in the Diſjunctive, *Smith* was bailed to appear at next Seſſions, *&c.*

Reſol. The reference by the Juſtices at the Seſſions, before they had allowed, or diſallowed the firſt order was illegal.

Bowber againſt *Panter. Paſch.* 8. *Car. B. R.*

Reſolved, That upon the Statute of 18 *El. c.* 3. that the Juſtices of Peace at their Seſſions, nor the Juſtices of Aſſiſes, have power to meddle with Baſtard-children, but upon an appeal and ſettling. But this is to be done by the two next Juſtices.

At *Salop* Aſſizes, 19 *Martii* 7 *Car.* 1631.

This queſtion was propounded to Sir *William Jones* Knight, Juſtice of Aſſize, by a Juſtice of Peace, *viz.* upon the Stat. of 18 *Eliz. c.* 3. & 7 *Jac. c.* 4. touching Baſtard children, by the firſt Statute punishment is inflicted; and by the ſecond, if ſhe offend the ſecond time, ſhe is to be ſent to the Houſe of Correction, &c. Upon this the queſtion was, one had a Baſtard child, but ſhe was not queſtioned for it, no proceedings being had againſt her upon the Stat. of 18 *El.* 3. Afterwards ſhe had a ſecond Baſtard. Whether ſhe ſhall be proceeded againſt upon the Stat. of 7 *Jac.* 4. for the ſecond offence, or whether the ſecond offence ſhall not be taken for the firſt.

Reſol. She ſhall not be puniſhed upon the Stat. of 7 *Jac.* as for her ſecond offence, unleſs ſhe had been before queſtioned and puniſhed for her firſt offence; but this ſecond offence ſhall be now taken to be as her firſt offence, and ſo is to be puniſhed for the ſame according to Law.

Town of *Tewksbury* againſt the Town of *Twyning* at Aſſizes, 9 *Julii* 8 *Caroli* 1632.

A Servant maid dwelling in *Twyning* was got with child, and being near her time, was conveyed by practice into an out houſe in *Tewksbury* where the child was born; afterward *Twyning* gave her relief, and the Miniſter of *Twyning* chriſtened her child, and as ſoon as ſhe was able to remove, they of *Twyning* gave her and her child relief for two years; afterwards the mother being ſick, they ſent her away with her child to *Longden* in *Com. Wigorn.* where the mother died: then they of *Longden* ſent the child unto *Twyning*, and they of *Twyning* ſent the child (being under the age of three years) unto *Tewksbury*, and they ſent it back to *Twyning*.

Reſol. The child regularly is to be kept where it was born,

born, if no practice was uſed to have it born there; but if by practice, then it is to be kept by the Pariſh where ſhe did dwell, and where ſhe was got with child, and which uſed practice to have the child born in another Pariſh, which is the Pariſh of *Twyning*; and ſo was ordered. Referred to Juſtices of Peace to examine the practice.

Ad Aſſizas 20 *Julii* 13 *Caroli* 1637, at *Gloceſt'*.

Anne Tarling having a Baſtard child, upon complaint made thereof to the Seſſions, it was referred to the next Juſtices to Examine and Order. Who did make an Order againſt *John Wood* to be the reputed father, and ordered him to allow one ſhilling four pence weekly, &c. *Wood* appeals to the Seſſions, where the ſaid Order was diſallowed, and one *William Cole* charged to be the reputed father. *Jones* Juſtice without examining the cauſe, confirmed the laſt Order made at Seſſions, which was final, and no Appeal to be admitted againſt it.

And in a *Lincolnſhire* Cauſe, one *Pridgeon* being queſtioned, and found by two Juſtices to be the reputed father of a Baſtard-child, they made an Order againſt him for allowance, &c.

Afterwards he appeals to the Seſſions, where the ſaid *Pridgeon* was diſcharged, and another was found to be the reputed father, and an Order made againſt him.

Afterwards at another Seſſions of the Peace, upon a re-examination another Order was made againſt the laſt Order; whereby *Pridgeon* was found again to be the reputed father, and ſo ordered to maintain the child. *Pridgeon* appeals to the Judges of the King's Bench. Reſolved, that *Pridgeon* ſhall be freed from the ſecond Order at Seſſions, it being illegal. And the firſt Order made by the Quarter Seſſions upon Appeal to them to ſtand in force, and no Appeal to be admitted againſt it, the ſame being final, and not to be altered

altered by the Judges of Aſſize. And ſo it was reſolved by the Judges of the King's Bench.

And ſo upon 43 *Eliz. cap.* 4. for Charitable Uſes, if the Commiſſioners make an order or decree in the Caſe, and upon Appeal to the Lord Chancellor or Lord Keeper, and exceptions put in, if upon that the Decree made by the Commiſſioners be confirmed by the Lord Chancellor or Lord Keeper, this Decree is by this made to be final, and no ſubſequent Appeal to be admitted.

Bath and *Buxton.* Vide *Licenſe.*

Battery lawful. Vide *Riot, Aſſault. Breach of the Peace.*

Bawdery.

Bawdry is not meerly a ſpiritual offence, but mixt, and ſoundeth ſomewhat againſt the Peace. *Lam.* 119. *Dal.* 292.

A Conſtable, upon information that a woman is in adultery or fornication with a man, or that a man and a woman of ill report are gone to a ſuſpected houſe in the night, may take company with him, and if he find them ſo, he may carry them to priſon, or to a Juſtice, to be bound to their Good Behaviour. *Dal.* 293.

Reſorters to Bawdy-houſes are to be bound to their Good Behaviour. *Dal.* 293.

Keepers of Bawdy-houſes are to be bound to their Good Behaviour. *Dal.* 293.

Beads. Vide *Agnus Dei.*

Bear-wards. Vide *Licenſe.*

Beer, Beer-brewers. Vide *Victuallers:*

Beggers. Vide *Poor People, Rogues.*

Blockwood. Vide *Logwood.*

Bloodſhed.

Bloodſhed.

Preſentment of Bloodſhed found in the Sheriffs Turn, and ſent to the Juſtices of Peace, can neither be traverſed before the Juſtices of Peace, nor at the Sheriffs Turn. *Lam.* 543.

Bowyers. Vide *Archery.*

Braſs and Pewter.

Brazier, nor Pewterer, may exchange or ſell any Braſs, or Pewter, but in open Market or Fair, or in his houſe, unleſs upon requeſt of the buyer, on pain of ten pounds for each offence. 19 *H.* 7. *c.* 6. 4 *H.* 8. 7. and inquirable at the Seſſions. *Lam.* 621.

All working hollow wares, of other lay metal, than according to the aſſize of the lay mettal wrought in *London*, or not ſetting their ſeal on, loſe the wares. Searchers of Braſs and Pewter muſt be appointed by the Juſtices of the Peace at Michaelmas Seſſions. 19 *H.* 7. *c.* 6. 4 *H.* 8. *c.* 7. *Lam.* 621.

Tranſportation of Braſs, Pewter, *&c.* prohibited. *Vide* 33 *H.* 8. 7. 23 *Ed.* 6. 37.

No ſtranger may work in Pewter or Tin, *&c.* *Ib.*

Breach of the Peace, or Good Behaviour.

What, Breach of the Peace.

To threaten one to his face to beat him, at whoſe ſuit he was bound. *Lam.* 115. *Dal.* 281. *Cro.* 136. b. or in his abſence, if he after lie in wait to do it. *Ibid.*

To command or procure one to do any unlawful act againſt the Peace, if it after be done. *Ib.*

Menacings, Affrays, Aſſaults, injurious and violent Handlings, and Entreatings, Battery, and malicious Strikings,

Strikings, Impriſonment without Warrant; to thruſt one into the water to endanger him, to raviſh a woman, to commit Felony, or Treaſon. *Dal.* 182. *Lam.* 127.

A Farmer, Tenant, or Commoner, by threats or blows to repulſe violence offered his Land-lord or Mayor. *Lam.* 129. *Dal* 285.

What act ſoever is a Breach of the Peace, the doing thereof doth beget a forfeiture of the Recognizance made for keeping of the Peace. *Dal.* 281. *Lam.* 114.

A Juſtice of Peace certifieth into the Kings Bench, that ſuch a man broke the Peace in his preſence; the party ſhall be put to his fine without any Traverſe. *Cro.* 132. 2.

What not.

In his abſence to threaten to beat him, at whoſe ſuit he was bound to the Peace. *Dal.* 281.

Threats or moderate correction of the Maſter, Schoolmaſter, Goaler, to thoſe under their command, of Parents to the child within age, of the Lord to his Villain. *Lam* 127. *Dal.* 283.

To beat with Rods a Kinſman that is mad, to the end to reclaim him. *Dal. ibid. Lam.* 128.

Conſtable, Officer, or any of their company, to ſtrike any for better execution of their office. *Dal.* 289 *Lam.* 128. By threats or blows to repulſe violence offered to ones own perſon, wife, father, mother, child, maſter. *Dal.* 283.

Preſervation of his own goods. *Ibid. Lam.* 129. and *Cro. m.* 136. b. affirm that the Maſter may beat him that doth aſſault or beat his ſervant: but *Dalton* maketh a Quære of it, and that a Maſter may only without ſword or ſtaff defend him. *Dal.* 283. *Pax Reg.* 5.

To kill or hurt one at fence, play, tilt, turnament or barriers in the Kings preſence, or by his command. *Dal.* 186. *Lam.* 129.

To take ones goods wrongfully, if not from his perſon.

ſon. (*Lam.* 130. *Dal.* 286. 210.) is no forfeiture of his Recognizance. *Cro.* 65 b. *nu.* 59. 8. 137. a.

So to take anothers Ward. *Dal.* 185. *Lam. ibid.* To diſſeiſe another of his Ward. *Dal. ibid.*

To treſpaſs in anothers corn or graſs. *Ibid.*

Treſpaſs lieth at the Common Law for threatning to beat one.

It is no breach of the Peace for a private man to ſtrike or wound another in defence of his own perſon from bearing, wounding, or killing: but if he may eſcape with his life without being wounded, maimed, or hurt, it is not lawful, except he firſt flie as far as he can. *Dal.* 284. 308, 309. *Cro.* 137. 2.

To take a Dog of any kind, or other thing of pleaſure from the perſon of another, or in his preſence with force or violence, amounteth to a Breach of the Peace. *Dal.* 372. *Vide* Forfeitures, Theft.

Brewers. Vide *Victuallers.*

Bridges.

By common right Bridges ſhould be amended by the whole County, for it is for the common eaſe of the County. *Cro.* 187. *Dal,* 45. b. yet if any have a fiſhing or profit in that River, they are chargeable. *Cro.* 186. b.

A man voluntarily maketh or amendeth a Bridge; he is not compellable to do the ſame again, unleſs he and his Anceſtors have uſed ſo to do time out of mind. *Dal.* 45. *Cro.* 186. a.

Where a man and his anceſtors have uſed time out of mind to repair a Bridge, the King cannot acquit him, *Dal.* 45.

It being not known who, or what land is chargeable with the repairing of a decayed Bridge, four Juſtices, one being of the Quorum, may tax the Inhabitants, and make Collectors and Overſeers for repairing of it, and

and appoint Surveyors, and exact an account of them: and if they refuſe ſo to do, the ſaid Juſtices may make out Proceſs againſt them, by Attachments, Precepts, or Warrants under their Seals, returnable at the Quarter Seſſions, and may allow reaſonable coſts to the Surveyors and Collectors. 22 *H.* 8. *cap.* 5. *Dal.* 44.

A man and his anceſtors, or a Corporation time out of mind, uſed to make a Bridge, tho they did it freely at the firſt, and not of right, it ſhall conclude the heirs and Succeſſors. *Dal.* 45. *Cro.* 186. 2. b. *Prior of Stokes Caſe.*

Juſtices of Peace where a decayed Bridge is, may award Proceſs into the County where the party or land chargeable is. *Dal.* 45.

A bridge lying within a Corporation, the Hundred ſhall not be charged therewith. *Et è converſo. Dal.* 45. *Cro.* 187. b.

A Bridge lying in two ſeveral Counties, either muſt repair his part. *Dal.* 45. *Cro.* 187. b.

A common Bridge lying within a Franchiſe, they muſt repair it. *Cro.* 187. b. *Dal.* 45.

A man is to repair ſome Arches at the end of a Bridge: if the Buttreſſes be decayed, he is to follow the courſe of the water, and to repair the high-way without leave of the owner of the land, and lay ſtones, &c. neceſſary upon the adjoyning land of another. *Cro.* 186. b, *Dal.* 45.

He that is bound to repair a Bridge, muſt maintain the way at each end *Cro.* 86. b.

Preſentment or Information of Defect in repairs of Bridges, ſhall be in the County where they lie, and ſhall not be removed before Traverſe, and Judgment. 22 *Car.* 2.

Six Juſtices (at leaſt) being the major part in *Cheſter* and *Lancaſter* may for ten years erect Bridges, or repair the old, and charge the County, or Hundred. 22 *Car.* 2.

So in *Monmouth* repair Usk and *Baſalegg* Bridges, by

by levying not above forty pounds in one year.

For repairing *Cardiff* Bridge. *Vide* 23 *El.* 11.

For repairing *Chepſtow* Bridge. *Vide* 3 *Jac.* 23.

For amendment of Bridges within five miles of *Northumberland*. *Vide* 18 *El.* 20.

For repairing of *Upton* Bridge. *Vide* 4 *Jac.* 24.

For making the Bridge at *Wilton* over *Wye* in the County of *Hereford*. *Vide* 3. *El*, 24.

Buckſtals.

One ſuſpected to have offended againſt the Statute 19 *H.* 7. *c.* 11. of Deer-hales and Buckſtals, *&c.* is to be examined by two Juſtices at Quarter Seſſions, and being convicted by his own examination only, is to be impriſoned till he find Surety for the forfeiture. 19 *H.* 7. *c.* 12. *Lam.* 535, 630. the tenth part whereof the Juſtices examining ſhall have. *Ibid. Dal.* 117.

Buggery.

The ſin of Buggery with a man or beaſt it is felony, and Clergy taken away. But with a man, is properly Sodomy. 25 *H.* 8. *cap.* 6. 5 *El. cap.* 17. *Lam.* 227, 256, 421.

Anciently ſuch Offenders were burnt. *Fitz.* 269.

Emiſſio, &c. ſans penetration ne fait buggery mais il eſt bon evidence. 3 *Inſt.* 59. *Vide Dal.*

Both Agent and Patient are Felons. *Ib.*

Bull from Rome. Vide *Treaſons.*

Burglary.

Burglary is, when one, or more, in the night time do break a dwelling-houſe, or a Church, or the Walls or gates of a City or walled Town, with an intent to do Felony,

Felony, albeit they carry away nothing. *Dal.* 359. *Lam.* 258, 423. *Cro.* 31. 2. *nu.* 1.

The night is from ſun-ſetting to ſun-riſing. *Ibid. Lam.* 259, 423, 424. *Dal* 359.

Clergy is taken away in Burglary.

Breaking the houſe with intent to kill, muſt be underſtood to be in time of Peace, elſe no Burglary. *Br. Chron.* 176.

If a Thief finding the door open, cometh in the night, and robs the houſe, and is taken with the maner, and breaks a door to eſcape; it is one entire act, and therefore Burglary. Sir *Fr. Bac.* 65.

Where a houſe is broke open, and robbed of above the value of five ſhillings, no perſon being in it, Clergy is taken away by 39 *El.*

What act ſhall make Burglary without entring into the houſe.

Putting back the leaf of a window. *Dal.* 359. *Lam.* 262.

Drawing the latch of a door. *Dal. ibid. Cro.* 33. b. *Lam. ibid.*

Turning the key being on the inſide. *Cro.* 31. b. *Dal. ibid. Lamb.* 262.

Breaking the glaſs window, and hooking out of Goods. *Lamb. ibid.*

So making a hole in the wall, and perceiving one to come by with a Purſe, to ſnatch it, or the like; as a Cabinet in a window, hocking or pulling it to him.

Making a hole in the wall, and ſhooting one within the houſe. *Dal.* 360. *Lam.* 262. *Cro* 31. b. *n.* 7. 1. And 114.

The door being open, to put his hand over the threſhold, and diſcharge a dag at any within. *Dal. ibid. Cro.* 32. 2. *nu.* 11. *Lam.* 263.

But if there come to a houſe, and ſome within open the door, and one of them ſhoot at the man, and miſs him,

him, and the Bullet break the wall of the houſe; it is no Burglary.

They within caſt out their money for fear, and they without carry it away. *Cro.* 31. b. *nu.* 9. *Lamb.* 261. *Dal.* 360.

Without breaking the Houſe.

To ſet foot over the Threſhold with a felonious intent. *Dal.* 360. *Co.* 32. a. *nu.* 13.

To come down by a Chimney. *Ibid.*

To come in by help of a key. *Cro.* 31. a. *nu.* 8 *Lam.* 261. *Dal.* 360.

To enter, the doors being open, and the Owner flying to his Chamber, to ſhove at the Chamber door. *Dal. ib. Lam.* 262. *Cro.* 31. b. *nu.* 25.

If pretending to be robbed, by help of the Conſtable for ſearch they rob the Owner. *Ib. Lam.* 263. *Dal.* 360. *Cro.* 32. b. *nu.* 24.

If upon conſpiracy with a ſervant, the ſervant openeth the door, and the Thief entreth. *Dal.* 360.

One entring, and the reſt ſtanding about the houſe, or not far off. *Ibid. Lam.* 264.

To enter under the Threſhold; at a hole in the Wall broke before.

But hiding himſelf in the day, and going out in the night, having robb'd, is not Burglary, it ſeems. *Quære.*

What place makes Burglary.

Publick, as Church, Walls or Gates of a City or Town walled: Private, as a dwelling-houſe, if any be within. *Dal.* 361, *Cro.* 33. a. *nu. Lam.* 260, 261.

The family for part of the night is abroad, and in the interim the houſe is robbed. *Dal.* 361. *Cro.* 33. b. *nu.* 40.

A man hath two dwelling houſes, and dwelleth ſometimes at the one, ſometimes at the other, and hath ſer-

vants at both, and the ſervants are abroad, in the night the houſe is broken. *Ibid. Cr.* 33. b. *nu.* 40. *Dal. ibid.*

To break a Chamber in a College, or Inn of Court, though no body is in the Chamber. At twelve a Clock, no body being in the Chamber, tho there are perſons of the Society in the Hall at Dinner. 1 *Cro.* 474.

Breaking a barn or ſtable near to a dwelling houſe, to the intent to ſteal. *Dal.* 362. *Cro.* 32. *Lam.* 261.

Robbing a back-houſe. *Dal. ibid.*

To enter, to raviſh a woman. *Quære Dal.* 262.

The Hoſt of an Inn breaking into his Gueſts Chamber to rob him. *Dal.* 368. So of a Gueſt robbing the Hoſt.

What not.

Entring only with intent to beat. *Dal.* 362. *Lam.* 264.

Breaking, and departing without entring. *Lam.* 262. But it is Felony. *Ib. Lam.* 261. It is no Burglary in one under fourteen years of age. *Dal.* 362.

Nor in poor perſons, that upon hunger break and ſteal under the value of twelve pence. *Dal.* 362.

Nor in natural fools, or *non compos mentis. Dal.* 363.

Burial.

No perſon ſhall be buried in any ſhirt, ſhift or ſheet, made of, or mingled with Flax, Hemp, Silk, Hair, Gold, or Silver, or any but of Wool only; nor be put in any Coffin lined, or faced with Flax, Hemp, Silk, or Hair, upon pain of five pounds to the poor. 18 *Car.* 2. 4. The penalty is to be levied by the Church-wardens and Overſeers (or any of them) by Warrant from any Juſtice, Major, Alderman, or Head-Officer, by diſtreſs and ſale of the goods of the interred, or any having a hand in it, *Ib.*

The

The penalty is to be towards raiſing a Stock, to be employed in ſetting the Poor to work. *Ib.*

Licenſe to bury in the Church, muſt be had of the Parſon, and not from the Ordinary, or Church-wardens.

Burning of Houſes.

Malicious Burning of Houſes, being dwelling-houſes, or a barn with corn in it, is Felony. *Dal.* 376. *Lam.* 266, 424. *Cro.* 31. 2. *nu.* 3. So of an out-houſe adjoyning to the houſe, or barn.

Burning of an empty Barn in the night feloniouſly, if it be nigh a dwelling houſe. *Dal.* 376. *Lam. ibid.*

All Burning that proceedeth of a former Burning that was malicious, is Felony. *Lam.* 377. As burning his own houſe with intent, &c. and the others houſe is burnt.

Threatning by Bills, if money be not laid in a place, to burn a houſe. 3 *Inſt.* 67.

One intending to Burn anothers houſe, fireth it, and part only is burned, and quenched; it is Felony. *Dal.* 377.

One ſhooteth unlawfully in a hand-gun, and the fire ſetteth another mans houſe on fire, and burneth it down, it is Felony. *Dal.* 377.

Burning of a Stack of Corn feloniouſly. 22, 23 *Car.* 2. *Dal.* 393.

Burning of a Frame of a Houſe not Felony. *Vide* 37. *H.* 8. 6.

Burning of heaps of Wood prepared for Coals, not Felony, but a grand treſpaſs, for which he ſhall forfeit treble damages to the party grieved, and ten pounds to the King. *Ib.*

Butchers.

Butcher gashing a hide, whereby it is hurt, loseth twenty pence. 1 *Jac. c.* 22. *Lam.* 462.

Butchers watering any hides, except in *June*, *July*, or *August*, lose three shillings four pence an hide. *Ibid.*

Butcher, or any other killing Calves to sell under five weeks old, loseth six shillings eight pence a calf. *Lam.* 453.

Or killing any Weanling, Bullock, Steer, or Heifer, under the age of two years. *Lam.* 453. 24 *H.* 8. *c.* 9. *Vide* Victuallers.

Butcher using his own Trade, and a Tanners, forfeits every day six shillings eight pence. 1 *Jac.* 22.

Butter and Cheese.

Offences in weighing, packing, and making of Butter, and the Firkins or Casks are enquirable, and to be heard and determined in the Sessions of the Peace for the several Counties, or in the Courts of Record of the several Cities and Towns corporate, or Liberty where the offence shall be committed, and the penalties there to be recovered by Debt, Indictment, or Information, one half of the Forfeiture to the use of the poor, inhabiting within the Parish where the offence is committed; the other (besides double costs) to the prosecutor; so as such suit be begun within four months after sale of such Butter. 14 *Car.* 2 *cap.* 26.

None but Victuallers may buy, to sell again, Butter or Cheese, unless by retail, in Market overt, else he forfeits the double value. 3, 4 *Ed.* 6.

But Cheese-Mongers and Tallow-Chandlers having been seven years of the Trade, are not within 5 *Ed.* 6. against ingrossing, &c. See more of this in *Victuals.*

Buts.

Inhabitants of a Town not continuing their Buts as they ought, are to loſe for every three months twenty ſhillings, 33 *H.* 8. *c.* 9 *Lam.* 481.

Buying and Selling. Vide *Cattel.*

Calves and Kine.

ANy killing Calves to ſell under five weeks old, loſe for every one ſix ſhillings eight pence. 1 *Jac.* 22.

Any feeding in his own ground fit for Milch-Kine, wherein none hath common, above a hundred and twenty Sheep more than for his own proviſion, muſt raiſe one Calf for every ſixtieth Sheep, or loſe twenty ſhillings a month for each Calf, and keep a Milch-Cow for every ten Oxen, Runts, &c. ſo fed above twenty. And for every two Milch-Kine muſt rear one Calf yearly, except it die, upon the like pain. 2 & 3 *P.* & *M.* *c.* 3. 13 *El.* *c.* 25. 7 *Jac.* *c.* 8, *Lam.* 453.

Offences againſt this Statute are determinable at the Quarter Seſſions.

Captains.

Any Muſter-maſters taking reward for diſcharging any from ſervice, loſe ten times ſo much, or twenty pounds. 2 *E.* 6. *c.* 2. *Lam.* 482, 483

Captains, or others, having the charge of men for war, keeping back part of their pay, loſe to their Soldier treble ſo much as is not paid; or for gain licenſing any to depart, loſe ten times the gain. 2 *E.* 6. *Ibid.*

Vide plus in Soldiers Travelling.

Carriages.

The care and ordering of Carriages for the King and his Service in the progreſſes or removal, are referred much to the power and appointment of two Juſtices of the Peace, and the ſetting prizes upon the Proviſions for his Majeſties Servants upon that occaſion. 13 *Car.* 2 *cap.* 8.

And the Carriages of Timber, Ordnance and other neceſſaries for the Navy, and the directing and ordering the ſame; which ſee in the ſaid Acts, being to continue in force until the end of the firſt Seſſion of the next Parliament, and no longer. 14 *Car.* 2 *cap.* 20.

Caſtle. Vide *Felony.*

Cattel.

Thoſe that maim, *&c.* Cattel in the night, ſhall forfeit treble damages. 22, 23 *Car.* This Statute extendeth not to Cattel for Houſe-Proviſion.

Buyer of live Oxen, Runts, Steers, Kine, Calves, Sheep, Lambs, Kids and Goats, if he ſell them within five weeks after, loſeth the double. 5 *E.* 6. *c.* 14. *Lam.* 452.

Vide Badgers.

Certificate.

No Commiſſioner, *&c.* of the Exciſe ſhall aſſume the Office, and the execution of it, till they have entred a Certificate (of the Oaths taken, appointed by 12 *Car.* 2.) with the Auditor of the Exciſe, *&c.*

Recognizance and releaſe of the Peace, both are to be certified at the next Quarter Seſſions: 3 *H.* 7. *cap.* 1. But no pain by the Statute to the Juſtice if he do not,

Lam.

Lam. 101. *Dalt.* 278. *Crom.* 139. 2. *mu.* 12.

One that is bound to the Peace maketh default at the day of his appearance, the Recognizance with the record of the default of his appearance must be certified into the Exchequer, Kings Bench, or Chancery: So if it be presented that he hath broken the Peace. *Lam.* 589.

Sheriff must certifie to the Justices at the next Sessions, Indictments lawfully found and taken at his Turn or Law-day. 1 *E.* 4. *c.* 2. The penalty is forty pound.

Clerk of the Crown must certifie the names of any that have been out-lawed of Felony, or Clerks convicted or attainted upon the Letter of a Justice of a Peace, or lose forty shillings. 34 *H.* 8. *c.* 14.

Transcript of every attainder, outlawry, or conviction had before the Justice of Peace, must be certified in the Kings Bench by the Clerk of the Peace within forty days after the attainder, if it be in Term; if not, within twenty days after the beginning of the next Term, on pain of forty shillings, 34 *H.* 8. *c.* 14. Clerk of the Peace must certifie to the Ordinary a transcript of the Clerks convicted or attainted. 34 *H.* 8 *cap.* 14. Quære, because by 18. *El. c.* 6, no delivery to the Ordinary. *Lam.* 588.

Custos Rotulorum of the County where one is attainted as principal of Felony, upon writing of the Justices of the Goal-delivery, or Oyer and Terminer of another County where one is accessary unto the other, must certifie what is done with the principal. 2 *Ed.* 6. *c.* 24. *Lam.* 588, 589.

Where the Justices are to receive Indictments, and no power to proceed upon them, they must certifie them into the Kings Bench without *Certiorari*. *Lam.* 589.

Abjuration of a Seditious Sectary made in open Quarter Sessions, must be certified at the next Assizes unto the Justice of Assize. 35 *El. c.* 1. *Lam.* 590.

Presentment that Goods and Chattels of one attaint-

ed of Felony be in others hands, it is to be certified in the Kings Bench, or Exchequer. *Lam.* 590.

Certificate of a Justice of Peace about Corn. *Vide* Corn.

Certificate of the Ordinary of a silenced Minister. 14 *Car.* 2.

Certificate of a Coffee-man, that he hath given security for Excise, paying when he takes a License. *Vide* Coffee.

Recognizance of an Ale-house-keeper must be certified at the next Quarter Sessions after the Taking, or the Justice loseth five Marks. 5 *E.* 6. *c.* 25.

Certificates of dockets of Purveyors. *Vide* Purveyors.

Certificates of Transcripts of Records of the Sessions into the Kings Bench. *Vide* Clerks of the Peace.

Certificate of Riots. *Vide* Riots.

Certificate of Certiorari. *Vide* Certiorari.

Certificate of Examinations. *Vide* Examinations.

One outlawed in an Indictment of Manslaughter, being beyond-sea at the time of the outlawry, assign'd that for error, and upon issue that he was in Midd. the Council assign'd offered in evidence the Town Beyond-sea: and it was held by the Justices, that such a Certificate under the Town-Seal was not good, without oath of the truth, and one sworn for the exposition of it into English. 1 *Gro.* 365.

Certificate of a Record of Indictment by the *Custos Rot. Not.* in the name of the Justices is erroneous. *Hob.* 135.

Vide plus in Recognizance.

Certiorari.

Certiorari is to remove Indictments or other Records to be fully heard, where the Justices cannot proceed; or be reversed, where they have proceeded erroneously. *Lam.* 591.

To

To remove a Recognizance from the Assizes to *B. R.* 2 *Cro.* 282.

To the Justices of Goal-delivery *de novo*, where it was awarded to the Justices of Peace before. *Hob.* 135.

A Certiorari issueth out of the Chancery, and the Records are removed thither, and sent thither by Mittimus to any other Court. *Le.* 591.

Certiorari to remove matters of the Crown, need not contain the cause of the removing. *Lamb.* 514. It lies to *Lond.* 2 *Cro.* 538.

Certiorari into the Chancery hath, *in Cancellaria*; into the Kings Bench, *Nobis mittatis*. *Dal.* 553. *Cro.* 132. 2.

Certiorari may command either the Record it self, or the tenor of the Record. *Cro.* 131. b. *Lam.* 515. *Dal.* 553.

Certiorari is to be directed to the Justices. *Lam.* 515. And it lies to remove an Order of Sessions into *B. R.* and a Hab. cor. to remove the Body.

Justices of Peace ought upon Certiorari to remove the Record, tho the party that brought the Certiorari sueth not after to have it removed. *Dal.* 553. *Cr.* 132. b. & 133. 2. *Le.* 516.

So tho the *Custos Rotulorum* keep the Records.

An Indictment may be removed upon a Certiorari, bearing date before the Indictment was taken. *Dal.* 553. *Cro.* 132. b. 164. 167. b. *Lam.* 510.

Certiorari good and effectual after delivery, tho the Return be past. *Yelv.* 32.

A Certificate of a Certiorari ought not to omit that which did authorize the Justice to make the Record, neither ought they to certifie more than the Certiorari warranteth them. *Lam.* 516.

If the Certiorari vary from the Record, the Justices need not to certifie. *Cro.* 132 b. *Dal.* 554.

A Certiorari is to send up the Indictment of *A*, in which others are joyntly indicted, the Justices need

not

not make Certificate of any but of *Allonly*. *Cro.* 132. 2. *Lam.* 517. *Dal.* 553.

A Justice may without Certiorari send into the Kings Bench a Recognizance of the Peace, an Indictment found before, or a force recorded before him. *Dal.* 553. *Cro.* 132. b. 133: but not without Certiorari, if he be put out. *Ibid.*

No Bills of Indictment, Riot, Forcible Entry, Assault, or Battery found at the Quarter Sessions, shall be removed by Certiorari, unless it be delivered in open Quarter Sessions, and the indicted bound in ten pound to the prosecutor, with such sureties as the Justices shall allow, to pay within one month after the conviction of the Indicted to the prosecutor, such costs and damages as the said Justices shall allow, otherwise the Justices to proceed to trial. 21 *Jac. c.* 8. *Dal.* 554 220.

Certiorari lies into *Wales*, to remove an Indictment of a Riot; and so of other Indictments: but not an Appeal out of the Grand Sessions. 2 *Cro.* 484.

Vide the Return of the Certiorary, for the form, *Dal.*

Vide plus, Certificate, Justices of Peace.

Challenge.

The King is not to challenge peremptorily, but is to shew cause, by 33 *E.* 1.

When the King is party, upon an Office found, and traversed, the subject may challenge the array. 1 *Inst.* 156.

If a Peer be returned on a Jury, and sworn, he may be challenged by either party, or he may challenge himself. 1. *Inst.* 156.

The Array may be challenged where a Peer is party and no Knight returned of the Jury. *Ib.*

But a Nobleman being to be tryed, cannot challenge any of his Peers, being to try the Cause upon Honor.

On

One Indicted of Felony may challenge as many as he will, ſhewing cauſe: but without cauſe he may not challenge above twenty. 22 *H.* 8. *c.* 14. *Lam.* 554. 28 *H.* 8. *c.* 1.

What ſhall be a good challenge of a Juror.

That he was an Indictor of him. *Lam.* 554.

That he hath no Lands to the clear yearly value of forty ſhillings. *Lam.* 554.

In Cities and Boroughs, that he hath no goods moveables worth forty pound. *Lam. ib.*

That he is not *Probus & Legalis*, as if he be attainted of Felony, Forgery, Perjury, &c. *Lam. ibid.*

Champerty is, when one for hope of having part of the thing in variance, moveth or cauſeth the ſuit to be moved at his own coſt, and for it he is to be fined. 33 *E. c.* 1, *Lam.* 441.

Chance-medly, or Miſadventure,

Is a kind of Homicide, that (being ſtrictly taken) is neither malicious nor voluntary, and ſo conſequently not Felony, but forfeiture of Goods and Chattels attends it in ſome caſes, and in ſome not.

Chance-medly generally taken is Manſlaughter on a ſudden chance, and is Felony, but with Clergy. So *Se defendendo* Felony at Common Law. *Vide* Homicide, *Se defendendo.*

It is, when a man doing a lawful act, without any evil intent kills a man by miſadventure, as a Workman throwing Tiles, Timber, Stones from a houſe (ſo from a Cart) and giving warning, or the like.

When one is kill'd by the fall of a houſe, or tree, without willful default of another: elſe it is Felony.

If one ſhoot at a Fowl in a Tree, and the Arrow kills a man, &c. Otherwiſe of ſhooting at a Hen, or other tame fowl; unlawful, and murder. 3 *Inſt.* 56.

So

So of throwing a ſtone with intent to do a ſmall hurt, and death follows; Murder. *Ib.*

Chaſtiſement. Vide *Correction.*

Church and Church-yard.

Maliciouſly to ſtrike with a weapon in the Church or Church-yard or to draw a weapon to that end, is loſs of one of his ears, or having no ears, to be marked on his cheek with the Letter F. 5 *Ed.* 6. 4. *Lam.* 419.

To keep Fair or Market in the Church-yard, finable. *Ibid. Stat. Wint.* 13. *Ed.* 1. *c.* 6. *Lam.* 419.

Conviction of any upon the Stat. 5 *Ed.* 6. *c.* 4. may be by the Juſtices of Peace at their Quarter Seſſions, by verdict, teſtimony of two, or by confeſſion. 5 *Ed.* 6. *c.* 4.

Indictment alone and Outlawry not ſufficient.

Execution of the forfeiture upon the Statute of ſtriking in Church-yards, to be awarded by the Juſtices of Peace before whom the conviction. 5 *E.* 6. *c.* 4. *Vide plus* in Sacrilege.

If two Pariſhes lie in a Corporation, the Biſhop of the Dioceſs with conſent of the Magiſtrates and Juſtices of Peace, and Patrons may unite the two Churches, or Chappels. 17 *Car. c.* 3.

Taking up a ſtone, or holding up an Ax to ſtrike, is not within 5 *Ed.* 6.

Coſts ſhall be recovered in the Spiritual Court, for brawling in the Church yard, *pro expenſis Litium.* 2 *Cro.* 462.

Vide plus in Conſtable.

Church-wardens.

Church wardens and Conſtables, or one of them, or where none be, the Conſtable of the Hundred muſt once every year preſent at the Quarter Seſſions, the monthly

monthly abſence from Church of Popiſh Recuſants, and the names of every of their children of nine years old and above, abiding with their Parents, and as near as they can the age of their children, and the names of ſuch Recuſants Servants. 3 *Jac. c.* 4. *Lam.* 437. penalty twenty ſhillings. *Vide* Recuſants.

Church-wardens are to gather for the Priſoners. *Vide* Priſoners.

Church-wardens and Overſeers of the Poor are yearly to make account to two Juſtices, whereof one ought to be of the Quorum, *viz.*

1. Of all ſums received by them rated or not received.

2. Of ſuch ſtocks as they, or any of their Poor have in their hands. 43 *El. c.* 2.

3. What Apprentices they have put out.

4. What Poor they have ſet to work or relieved.

5. What Poor they have ſuffered to wander and beg.

6. If they have monthly met to take order for the Poor.

7. If they have aſſeſſed the Inhabitants and Occupiers of Lands, *&c.* in their Pariſh, and ſuch as are of ability, with indifferency.

8. If they have endeavoured to levy and gather ſuch aſſeſſments. *Dal.* 153. Defaults in any the premiſſes is twenty ſhillings. *Ibid.*

Two ſuch Juſtices may make their warrants both to the preſent and ſubſequent Church-wardens and Overſeers, to levy all ſums and arrearages of every one that ſhall refuſe to contribute according to the Aſſeſſment. And in default of diſtreſs commit them to the Goal till payment be made. *Dal.* 155.

Church-wardens and Overſeers refuſing to make a true account to the Juſtices of all ſuch ſums of money, or denying to pay the Arrearages, to be committed to the Goal without bail till account made, and the Arrearages paid to the new Overſeers. *Dal.* 154.

If there be but one Church-warden, he ſufficeth with the Overſeers. *Dal* 157. Church-

Church-wardens ſhall fine every Vintner, who permits company drinking in his houſe in time of Divine Service.

Church-wardens may bring an Action of Treſpaſs for wrongs done to the Church in time of their Predeceſſors; as taking away of the Bells, &c. 3 *Cro.* 145.

Church-wardens are not to be cited by the Eccleſiaſtick Court, but ſo as they may return the ſame day. 12 *Co.* 112.

Church-wardens ſhall not have double coſts, preſenting for incontinency, according to 7 *Jac.* being a ſpiritual matter. 1 *Cro.* 467.

So in caſe of an Action of the Caſe againſt, for ſuch falſe preſentment, verdict being given for them. 1 *Cro.* 286.

The Church-wardens (nor the Ordinary) cannot give licenſe to bury in the Church: nor any but the Parſon, having the free hold in him.

Church-wardens and Conſtables yearly upon Tueſday or Wedneſday in Eaſter week, muſt call together the Pariſhioners.

And firſt chuſe Surveyors for the High-ways. *Dal.* 99. 3 *P. & M. c.* 8.

2. Appoint ſix days for that purpoſe, to be before Midſummer next following. *Dal.* 99.

3. Give notice of the ſaid ſix days openly in the Church, the Sunday after Eaſter. *Ibid.*

Clerk of the Peace.

Clerk of the Peace muſt be preſent at the Seſſions, to read Indictments, and inrol the Acts of the Seſſions; as alſo to draw Proceſs. *Lam.* 393.

Clerk of the Peace muſt record Proclamations for the rates of Servants Wages, and inrol the diſcharge of Apprentices. 5 *El. c.* 4. *Ibid.*

He muſt keep the counterpane of the Indenture of armor. 4 & 5 *P. & M. c.* 2 Repealed by 1 *Jac.* 25. *circa finem.*

And

And the Books of Licenſes given to Badgers, and Loaders of Corn. 5 *El. c.* 12. *Lam.* 393.

And of thoſe that are licenſed to ſhoot in Guns. 2 *Ed.* 6. *c.* 14.

He muſt certifie into the Kings Bench Tranſcripts of Indictments, Outlawries, Attainders, and Convictions had before the Juſtices of Peace within the time limited, under the pain of forty ſhillings. 34 *H.* 8. *c.* 14, *Lam.* 588, & 593.

Recognizance of the Peace is brought into the *Cuſtos Rotulorum*, and if the party grieved will not ſue it, the Clerk of the Peace may call upon it for the King. *Lam.* 394. 2 *H.* 7. *c.* 1.

The office of the Clerk of the Peace is in the gift of the *Cuſtos Rotulorum.* 37 *H.* 8. *c.* 1. *Lam.* 394.

What Records the Clerk of the Peace is bound to certifie.

Vide Certificate.

The Clark of the Peace his Fees.

Vide Fees.

He muſt record preſentments for not coming to Church, and the Certificate of not taking the oath of Allegiance. 3 *Jac. cap.* 4. *Lam.* 393.

Clerk of the Peace is Clerk to the Juſtices, as the Statute 12 *R.* 2. *cap.* 10. nameth him, and not Clerk to the *Cuſtos Rotulorum* only. *Lam.* 394.

Clerk of the Peace may excerciſe his place by himſelf, or by his deputy ſufficiently inſtructed in the Law, and admitted by the *Cuſtos Rotulorum. Lam. ibid.*

Clerk of a Juſtice his Fees. Vide *Fees.*

Clerk of the Crown, what Records he ought to certifie. Vide *Certificate.*

Clerk

Clerk of the Market.

Clerk of the Market taking money to diſpenſe with faults; riding with more than ſix horſes, tarrying longer than is neceſſary; loſeth for the firſt offence 100 ſhillings, for the ſecond ten pounds, for the third twenty pounds. 13 *R.* 2. *c.* 4. Clerk of the Market may take no money for any Bills. He ought to ſeal no Buſhel but once. After the firſt ſealing to take any thing is extortion. *Dal.* 247. More 523.

See the Statute. 12 *Car. cap.* 19. 17 *Car.* 1, 19. 22 *Car.* 2.

Clerk of the Market for the Kings Houſhold, and of the Duke of *Cornwal*, ſhall execute their Offices within the Verge only: and Mayors, *&c.* according to their Liberties. 17 *Car.* 1. 19.

Clerk of the Market for the Kings Houſhold taking more than his accuſtomed Fees ſhall be within the penalties of the Statute. 17 *Car.* 1. 19.

Clerk of the Market for the Kings Houſhold ſhall reform abuſes in meaſures of Corn. 27 *H.* 8. 24.

There is a Clerk of the Market for the Kings Houſhold, to keep the Standard for the Kings meaſure, *&c.*

Another for the Prince of *Wales*. Another for the Duke of *Cornwall*, Others in Corporations, Others for Liberties.

Vide plus in Weights, *&c.*

Clergy and Sanctuary,

One Juſtice of Peace may take out of the Sanctuary him that is abjured thither, being indicted of any offence puniſhable by death done after he is become a Sanctuary man, and may commit him to the Goal in the County where the Indictment is found, till he be tried. 22 *H.* 8. *c.* 14.

Clergy, that is the benefit of it, is a Refuge provided by

by Common Law in favour of Learning, taking his original by the Canon Law in reverence to the Church: but not ruled by any fixed Canon Law, but ordered and qualified by the Kings Court, according to conveniency. So it was extended to all that could read, in favour of Literature, as appears by 4 *H.* 7. 13. and it was ſtraitned, and reſtrained, having regard to perſons, times, and caſes; as till conviction had, *&c. Vide* 11 *Co.* 29. b. *Hob.* 288.

In what offences Clergy is not allowable.

Clergy not allowed at Common Law in caſe of High Treaſon; nor in Sacrilege; nor in Pety Treaſon; nor in Felony for one convict of Hereſie; nor for a Jew, Saracen, or Infidel, 20 *Ed.* 3. *Cor.* 193. *Inſidiatores viarum, &c.* 4 *H.* 4. 4.

Statutes taking away Clergy are 23 *H.* 8 1. 28 *H.* 8 1. 32 *H.* 8. 1. by which Clergy is not to be had in

Pety Treaſon. 23 *H.* 8. tho alike at Common Law. *Co.* 29. b.

Breaking a houſe by day, and taking away any thing to the value of five ſhillings. 39 *El. c.* 15. *Lam.* 564, 565.

Conjurers or Witches, their aiders and counſellors. 5 *El. c.* 16. *Lam.* 564. 1. but 1 *Jac. c.* 12. repealeth. 5 *El. c.* 16.

Receivers or aiders of Seminary Prieſts or Jeſuites. 27 *El. c.* 2. *Lam.* 563.

Conſpiring to burn, take, or raze any Caſtle or Bulwark of the Kings. 14 *El c.* 1.

Rape or Raviſhment. 18 *El. c.* 6. *Lam.* 564.

Burglary. *Ibid.*

Carnally abuſing a woman within the age of ten years. *Lam.* 564 18 *El. c.* 6.

Principal or Acceſſary before the fact of taking away of a Maid, Widow, or Wife, that hath Lands or Subſtance, *&c.* 3 *H.* 7. *c.* 2. & 39 *El. c.* 9. *Lam. ib.*

Buggery. 5 *El. c.* 17. *Lam.* 564.

Murderer. *Lam. ib.*

Poiſoner of malice prepenſed. *Lam. ib.*

Robbing in the day, or nigh a high-way. *Lam. ib.*

Horſe-ſtealer. *Lam. ibid.*

Church-robber. *Lam. ib.*

Robbing of a houſe any being in it. *Lam.* 564.

Robbing of a Booth or Tent, any being in it. *Lam. ibid.*

Commander of Pety Treaſon. *Lam. ib.*

Commander of willful Murder. *Lam. ibid.*

So of Robbery in any dwelling-houſe in or near any High-way. *Lam.* 565. 4, 5. *Ph. & Ma.*

Stabbing one who hath no weapon drawn, nor ſtruck firſt, if he die thereof within ſix months. 1 *Jac. c.* 8. *Lam.* 565.

To burn any dwelling houſe, or any part thereof. *Lam. ibid.*

To burn any Barn having any corn in it. *Lam.* 565. 1 *Ed.* 6. *c.* 17. 4, 5 *Ph. & Ma. c.* 4.

Reporting falſe rumors againſt the King, deviſing or writing ſeditious or ſlanderous matter againſt the King. 23 *El. c.* 2.

Soldiers departing without licenſe of their Captain. *Lam.* 565.

Soldiers or Mariners which wander begging. 39 *El. c.* 17.

Or exceed the time of their Licenſe. *Ib.*

Or forge, or uſe forged licenſe, knowing it. *Ib.*

The ſecond conviction for forging falſe Deeds. 5 *El. c.* 14. *Lam.* 266.

Privily to take away goods or money above twelve pence from the perſon of another. 8 *El. c.* 4. *Lam.* 566.

Calling himſelf an Egyptian, or keeping them company contrary to the Statutes. 1 and 2 *Phil. & Mar. c.* 4. 5 *El. c.* 20. *Lam.* 566.

A confined Recuſant refuſeth to abjure the Realm;

or

or will not go; or returneth without licence. 35 *El.* c. 1, 2.

To acknowledge any Fine, Recovery, Deed inrolled, Statute, Recognizance, Bail, or Judgment, in the name of another not privy thereunto. 21 *Jac. c.* 26. *Dal.* 386.

To what perſons Clergy is grantable.

To a Baſtard.

To Bigamus. 1 *Ed.* 6. that exception taken away. 1 *Inſt.* 8. b.

To whom not grantable.

Women. *Vide* Women.

One that hath had it formerly, except he be within holy Orders. 1 *E.* 6. *c.* 12. *Lam.* 563.

In what Caſes Clergy is allowable.

Clergy ſhall be allowed in all caſes, ſaving ſuch as are mentioned 1 *E.* 6. *c.* 12. or eſpecially ſince that time taken away. *Cro.* 118. *nu.* 33.

For whenſoever Felony is made by a Statute, and Clergy not expreſly taken away, the Offender ſhall have it. 3 *Inſt.* 29.

Clergy ſhall be allowed but once. 4 *H.* 7. 13. *Lam.* 563. except he be within Orders. *Cro,* 118. a. *nu.* 36.

A Woman convicted of Felony above twelve pence, and under ten ſhillings, wherein a man may have his Clergy, ſhall be burnt in the hand with T, and whipped. 21 *Jac c.* 6.

Upon an Attainder by outlawry; Parliament; ſtanding mute: challenging peremptorily above twenty; where the Statute taketh it away upon conviction by verdict. *Vide Lam.* 567. if Clergy ſhall be denied.

Justices of Peace may give Clergy to a Felon, if the Ordinary be present; but they cannot fine the Ordinary for his absence, but must reprieve the prisoner. *Lam.* 551. *Vide* Ordinary.

If the Indictment doth not directly agree with the words of the Statute, that taketh away Clergy, the prisoner may have his Clergy. *Lam.* 566.

After Conviction and Clergy allowed, and the party burnt in the hand, he may be indicted of another Felony, *Lam* 559. 18. *El. c.* 6.

Where any man hath privilege of Clergy as a Clerk convict, and also in all Cases of Felony wherein the benefit of Clergy is restrained, excepted, or taken away by Statute (willful murder and poisoning of malice prepense excepted) any Lord of the Parliament or Peer of the Realm sitting in Parliament, shall upon his request and prayer, alledging that he is a Lord or Peer of the Realm, tho he cannot read, without burning in the hand, loss of Inheritance, or corruption of blood, be adjudged for the first time only as a Clerk convict. 1 *Ed.* 6. *c.* 12. But in all other cases, wherein Clergy is taken away by any Statute since 1 *E.* 6. he is in the same degree as a common person. *P. R.* 213. *Vide* Ordinary.

Cloth.

Every Justice beyond *Trent* hath some power in searching out the deceit of straining, or stretching the Country Cloths. 39 *El. c.* 20.

Any Justice of Peace next unto any Town corporate or City beyond *Trent*, is to joyn with the City or Town in appointing Overseers for Cloth. *Ibid.*

Two Justices of Peace must appoint yearly Overseers of Cloth sold in Towns not being corporate, and swear them to see execution of that part of the Statute which is yet in force. 3 *Ed.* 6 *c.* 2. *Limb.* 359. *Dal.*

Justices in the West Riding of *York-shire*, &c. Corporation, and to appoint Searchers, and make By laws. 14 *Car.* 2. 32.

So for *Norwich*, *Kiderm.*

One commanded by two Juſtices of the Peace to appear to be made an Overſeer of keeping the Statute of cloathing, and without reaſonable excuſe refuſing, ſhall forfeit forty ſhillings: one half to the two Juſtices. *Lam. ib.*

Two Juſtices of Peace may diſpoſe the money riſing of deceitful Cloth ſtretched. 31 *El. c.* 10.

If any perſons whoſe Tenters are defaced, offend the ſecond time he ſhall forfeit five pounds. 21 *Jac.* 18.

Woolen Cloth preſented by a retailer thereof to two of the next Juſtices of Peace, as defective againſt this Statute, and the Statute 4 & 5 *P. & M. c.* 5. they ſhall cauſe the ſame to be cut into three equal parts, whereof one part to the King, one part to the preſenter, and the third part to the Juſtices themſelves. 5 *E. 6. c.* 6. *Lam.* 359.

Juſtices of Peace faulty in executing the Statute againſt the deceitful ſtretching of Northern Cloth, loſe five pounds. 39 *El. c.* 20.

Clothier muſt ſet his ſeal of Lead to the Cloth, to declare the length to be tryed by water, or be fined. 3 *Ed. 6. c.* 2. *Lam* 469.

Overſeers names engraved on the Lead with this word [Search'd] or [Faulty.]

And the Cloth ſhall be viewed, ſearched or weighed by no other perſon, under the pain of five pounds. *Dal.* 51.

Cloth is not to be ſtretched above a yard and a half in length, and half a quarter in breadth, nor to ſhrink more in wetting, on pain of forty ſhillings. *Ibid.*

Browns, Blews, Pewks, Tawnies, and Violets, muſt be perfectly boiled, grained, or maddered upon the Woad, and ſhot with good Cork or Orchal, otherwiſe the Dier loſeth twenty ſhillings for every offence. 3 *Ed. 6. c.* 2. *Lam.* 469.

Wool for Ruſſets, Marbles, Grays, Bays, or for hats or caps, muſt be perfectly woaded, boiled, and maddered, or loſe twenty ſhillings every cloth, or wool for a cloth. *Ibid.*

Dying with Brazil, thereby to make a falſe colour, is loſs of twenty ſhillings a time. 3 *Edw. 6. cap.* 2. *Lam.* 469.

Putting flax, chalk, ſtarch, or other deceivable things upon any Cloth, except Devonſhire and Cornwall Straits, loſeth forty ſhillings a time. *Lam. ib.*

Selling cloth by leſs meaſure than after the true contents by the yard and inch, loſeth ſix ſhillings eight pence a yard. *Ib.*

Putting to ſale Cloth preſſed to be uſed in *England, Wales*, or *Ireland*, loſeth the cloth or value. *Ibid.*

The Statute mentions Hot Preſſes as deceitful, and atteſted ſo by Cloth-workers in *B. R.* 2 *Roll.* 312.

Refuſing to be Searchers of Cloth, or neglecting to ſearch once a quarter, loſeth as the offenders. *Ibid.*

Interrupting the Search of Cloth is loſs of twenty pounds. *Ibid.*

Kentiſh Cloth above ſix pounds price, muſt contain betwixt twenty eight and thirty yards in length being wet, and ſeven quarters broad within the liſts, and being well dreſſed, muſt weigh ſeventy ſix pounds, or loſe twenty ſhillings for want of length and breadth, and ſo much for wanting of four pounds of the weight. 1 *Ed. 6. c. 6. Lam.* 470. See now 4 *Jac. c.* 2.

For the particular breadths, weights, and ſorts of Cloths. *Vide* 4 *Jac.* 2. 25 *El.* 17. 5 *Ed. 6.* 4, 5 *P. M.* 5. and *Dal.* 52.

So forfeitures, if the Cloth want of the ſealed length, the Seller forfeits ſix ſhillings eight pence for every yard to the buyer. 4 *Jac.* 53.

Coals.

Every Keel, or other Boat; or Wain, or Cart which ſhall carry Coals to the Port of *New-caſtle, Sunder'land*, &c. *Seaton Sluce, Blythe Nook*, &c. not marked (and meaſured) by the Commiſſioners, ſhall be forfeited with the Coals upon them, to the King and Informer. 30 *Car.* 2. The

The measure to be by the Bowl-tub of *New-castle*, containing twenty two Gallons and a Pottle, *Winchester* Measure, and being twenty seven inches in Diameter upon the top, from outside to outside, and no more, and allowing twenty one Bowls of Coals, to be measured by such Bowl-Tub by heap measure to each Chalder, and no more.

The content of each Wain seven Bowls, and each Cart three Bowls, and a Bushel heaped, three Wains or six Carts to a Chalder; the Coals new wrought, and led to the Wharf in three months before the measuring, one half dry, the other wet; the Keels and Boats marked of what Portage, by nails on the Bulk-heads, or on the Stem, *&c.* between *March* 25, and *September* 29. *ib.*

These Marks being removed or altered, the person having a hand in it, convict before a Justice of Peace shall forfeit ten pounds by distress and sale, *&c.* or in default, have three months Imprisonment. *Ib.*

Coffee.

None shall sell or retail Coffee, Chocolate, Sherbet, or Tea, without license obtained at the General Sessions, or of the chief Magistrate, shewing a Certificate of security given for payment of his duties of Excise, by Recognizance for which license, security, *&c.* he shall pay twelve pence, and no more; under forfeiture of five pounds for every month. 15 *Car.* 2.

Commission of the Peace.

The form and parts of it, with observations thereon. *Vide Dal.* 16. 20.

Reformations of the Commission by the Chief Justice of *B. R. M.* 32. 53. *El.*

The Commission of the Peace is determinable at the Princes pleasure, either by express word, implication,

or death, or by the presence of higher power, or by occasion of another office, as to be made Sheriff, *Lam. 66, 67, 68, &c.*

If Justices sit by Commission, and do not adjourn the Sessions, the Commission is void. *Brook Commission. 12. Cro. 188. 2.*

Commission granted *hac vice tantum*, is determined after once sitting, if they do not adjourn the same. *Lam. 71.*

A new Commission of the Peace *hac vice tantum*, will determine the old. *Lam. 68.*

A Commission of the same kind in the same limits to other Commissioners without words of discharge, is a revocation of the former by implication. *Cro. 189. 2. Lam. 67. Dal. 11.*

A proper Justice is made within a special liberty, without words of prohibition, the Justices of the Shire may meddle there. *Lam 68, 69.*

The making of a new Commission is no determination of the old, till it be read or proclaimed at some Sessions, or in a full County, or at the Assizes. *Dal. 11. Lam. 69.*

The old Commission determining by a new, no process or suit hanging before the old Commissioners, is discontinued thereby. *Dalt 11. Cro. 188. 2. Lam. 69.*

Accession of a higher title taketh not away the authority of a Justice of Peace. *Dal. 12. Cro. 188. 2. Lam. 70.*

A new Commission to hear and determine felonies, determineth the old Commission of the Peace, but not concerning the Peace. *Lam. 72. Brook Commission 8.*

A Justice of Peace in making justification by vertue of his Office, needeth not to shew the Commission of the Peace, because the keeping thereof belongeth to the *Custos Rotulorum. Lam. 387, 388. Cro. 120. b. nu 13.*

Vide Custos Rot.

By *37 R. 2 c. 10* in every Commission of the Peace, two

two men of Law (amongſt others) are to be aſſigned *viz.* to proceed to the deliverance of Felons. *Dal.* 9.

Two were joynt Commiſſioners, and it is preſented that one only ſate, and fined the Countrey; and it was held void. But if one ſit, and it is recorded that it is done before both, it is good. So of Juſtices of Peace. *Cro.* 121. a. *nu.* 19 & 189. a. for averment ſhall not be taken againſt the Act of the Juſtices or Commiſſioners. *Cro* 189 a.

A Juſtice cannot be made by writ but by Commiſſion; but may be diſcharged by writ, which is in nature of a *Superſedeas. Brook Commiſ. nu.* 18.

If the Juſtices in Eir after Proclamation made, do come into the Country, and ſit there by vertue of their authority, then ceaſeth the power of the Commiſſioners of Peace. And ſo likewiſe, if the Kings Bench ſhould remove into the County. *Lam* 71. *Vide Cro.* 189. b. & 189. a. *Brook Commiſ. nu.* 18. But *Lambert* maketh a *Quære*, for that Juſt. of *Niſi prius*, do ordinarily bring a Commiſſion of *Oyer* and *terminer*. (*Lam.* 71) and yet no determination of the Commiſſion of Peace.

And *Brook* Commiſ. 8. and *Cro.* 188. b. *Un novel Commiſſion de Oyir & terminer felonies determine le ancient Com. del' P. quant a Oyir, &c. felonies, mes nemy quant al' Paix. Et iſſint vide commiſ. determine in part, & remane pur le remanent.*

Vide plus in Juſt. of Peace.

Commons.

Commons in Foreſts, and elſewhere, muſt be driven yearly within fifteen dayes after Michaelmas by the owner or Officers, on pain of forty ſhillings a time. 32 *H.* 8 *c.* 13. *Lam.* 483.

Vide plus in Horſes.

Common-

Common-Prayer.

If any Minister have refused to use the Common Prayer, or to minister the Sacraments, according to the Book of Common Prayer, in such order and form as is mentioned in the said Book, or willfully standing in the same, have used any other form in open Prayer, or in administration of the Sacraments; or spoken any thing in derogation of the said Book, or any part thereof; for the first offence it is loss of his spiritual living for a year, and imprisonment for six months without Bail: for the second, deprivation and imprisonment for a year: for the third, deprivation and imprisonment all his life. 1 *El. c.* 2. 23 *El. c.* 1. *Lam.* 417.

Any having in play, song, or rhyme, or by any open word spoken in derogation of the Book of Common Prayer, or any thing therein contained; or having caused, or maintained any Minister, to say any other Common Prayer, or minister Sacraments in any other manner; or interrupting any Minister to say open Prayer, or administer the Sacraments according to the said Book, he loseth a hundred Marks, or six months imprisonment without bail for the first offence: and for the second four hundred Marks, or twelve months imprisonment: and for the third, all his goods, and imprisonment for his life. *Ibid.*

Every Incumbent, having a Curate, shall in person, (without lawful impediment) once a month read Common Prayer, and administer the Sacrament, if occasion, or forfeit five pounds to the use of the Parish. 14 *Car.* 2. 14.

Concealment. Vide *Juvors.*

Confession.

After a free confession of an Indictment, and submission to fine in an action at the parties suit, for the same

ſame treſpaſs, he ſhall not plead *Not Guilty*: otherwiſe of a confeſſion *ſub modo*, as when he putteth himſelf *ſub gratia Regis*. *Lam.* 530.

Quære, whether if he once make a fine, he ſhall not be eſtopped to plead *Not Guilty*. Alſo whether the Juſtice of Peace may drive the party either to an abſolute confeſſion, or to his Traverſe. *Ibid.*

The voluntary confeſſion of an offender againſt the Statute. 1 *Fac. c.* 9. 4. *Fac. c.* 5. before a Juſtice of Peace is a conviction, and after confeſſion his Oath is ſufficient proof againſt any other offending at the ſame time. 21 *Fac. c.* 7. *Dal.* 27. *Vide Dal.* 403, 406.

All perſons of the County where one is attaint by confeſſion, or outlawry, muſt take notice, as well as if it be by verdict; and receivers there are acceſſary, it ſeems. *Dal.* 398. But *alias Bract.* and *Lam.*

So a receiver in another County not knowing of the Felony, is clearly no acceſſary. *Ib.*

Conjuration.

Conjuration of wicked ſpirits is felony. 5 *El. c.* 16. *Lam.* 227.

Vide plus in Witchcraft. 1 *Fac. c.* 12.

Conſervers of the Peace.

The King by his Royal Dignity Principal Conſervator of the Peace, and *Capitalis Juſticiarius*.

The Lord Chancellor, or Keeper of the Great Seal,
The Lord High Steward.
The Lord Marſhal,
The Lord High Conſtable,
The Lord Treaſurer,
The Juſtices of the Kings Bench,
The Maſter of the Rolls

Have incloſed in the grant of their Offices the Conſervation of the Peace over the Kingdom, and may tak

take Recognizances, and Awarded Precepts, *&c.*

The Chamberlain of *Cheſter* Conſervator of the Peace, being a Judge of Equity.

But the authority of theſe Officers is at this day by virtue of the Commiſſion, and by the name of Juſtices, or Commiſſioners of the Peace. *Bac. Uſe of the Law.* 12.

Juſtices of the Common Pleas, Barons of the Exchequer, Juſtices of Aſſize, and Goal-delivery have the Conſervation of the Peace within the Precincts of their Courts.

So the Stewards of the Sheriff's Turn, Leet, Pipowder. But may not award Warrants for the Peace.

So the Sheriff, High Conſtables at their Pety Seſſions.

Coroners are Conſervers of the Peace, and may in ſome caſes impriſon. *Lam.* 395.

Conſtables are Conſervers of the Peace within their limits. *Dal.* 3. *Lam.* 14.

So Borſholders, Thirdboroughs, Tything men, Headborough. *Dal.* 3.

Conſtables.

Every Conſtable at the Common Law before the Statute. 3 *H.* 7. *c.* 3. & 1 & 2 *P.* & *M. c.* 13. might bail one ſuſpected of Felony by obligation, or take ſurety of the Peace by obligation, or commit him to priſon that made an affray, till he have found Sureties. *Lam.* 15.

Conſtables or other Officers may lay no hands on two intending to fight, till weapons be drawn, or offer of blow. *Lam.* 132.

Conſtable hurt in parting an affray, may have an action againſt the affrayer; ſo may any other Officer: but the affrayer can have none againſt them. *Lam.* 132, 133.

Conſtable or Officer preſented at the Seſſions for not endeavouring

endeavouring to part an affray, being preſent, ſhall deeply be fined. *Lam.* 133.

Not ſo, if he be told of it being abſent. *Dal.* 35. *at quære contra. Cro.* 146. b.

Two fighting in a Houſe, the doors being ſhut, the Officers may break open the doors to ſee the peace kept. *Lam.* 133.

Conſtable taking an affrayer muſt impriſon him in the ſtocks, not in his houſe; and that till he may provide to carry him to the Goal. *Lam. ibid.* or to a Juſtice of Peace. *Lam.* 133. *Dal.* 37. 470. *Vide Dal.* 35.

Conſtable or Juſtice, if need be, may command aid of the Kings people for pacifying an affray. *Lam.* 134.

Conſtable or Officer may defend himſelf, and apprehend and impriſon the party that ſhall make an affray upon him. *Lam. ib. Dal.* 37. *Cro.* 147. a.

One Juſtice of Peace may command that two Conſtables be choſen in each Hundred. *Lam* 186.

High-Conſtables at their Pety Seſſions, for an affray made in diſturbance of the Court, may impriſon the offenders. *Dal.* 3. *Cook* 11. 43, 44.

Chuſing of High-Conſtables uſeth to be at the Quarter Seſſions; if out of Seſſions, by the major part of the Juſtices of that Diviſion where they dwell; and uſe to be ſworn at the Seſſions, or by warrant from the Seſſions. *Dal.* 57.

Two Juſtices of the Peace may appoint and ſwear new Conſtables, Headboroughs, *&c.* in caſe of death or removal of ſuch Officers out of the Pariſh: and if for default of holding Courts Leet, they continue above the year, they may be diſcharged at the Seſſions, and others put in their places. 14 *Car* 2. *c.* 12.

And by the ſame Statute, Conſtables, Tything-men and Head-boroughs, being out of purſe, with the Churchwarden, and Over-ſeers of the Poor, and other Inhabitants of the Pariſh, may make rates upon all occupiers of Land, and Inhabitants, and all others chargeable

chargeable by the Statute of 42 *El.* to the poor, which being confirmed under the hands and ſeals of two Juſtices of the Peace, may be levied by their Warrants, by diſtreſs and ſale of the Refuſers Goods.

Conſtables may make their Deputies within the Statute of 7 *Jac. Felps* Caſe, *M.* 13 *Jac. B. R.*

Upon a general Warrant of a Juſtice of Peace, it is at the choice of the Conſtable, not the delinquent, before what Juſtice to carry him. 5 *Co.* 59.

So without a new Warrant, to carry him to priſon, the words being, *Si hoc recuſaverit proxim. priſon. Ib.*

It ſeems by a *MS.* of Sir *N. Hide*, reſolved by all the Judges *T.* 5 *Car.* 1. That Juſtices at the Seſſions may not compel the Conſtables of Hundreds to attend at the Quarter Seſſions, to preſent offenders upon Oath: otherwiſe at the Aſſizes, &c.

A Woman Conſtable by cuſtom *ratione commorantiæ* ſhall chuſe a Deputy. 1 *Car.* 1.

Conſtables lawfully choſen, and refuſing, may be bound over to the Aſſizes, or Seſſions, to be indicted and fined: But a Commitment till he take upon him the Office, is void. *M.* 1652. *Dal.* 58.

A Conſtable *minus idoneus* may be diſcharged by Law. 8 *Co.* 42.

A Conſtable bound to his good behaviour for arreſting on a Sunday in the Church-yard after a *Certiorari* out of the Kings Bench ſhewn. 1 *Cro.* 603.

Conſtbles are to be aſſiſtant to Collectors of Chimney Money, by 16 *Car.* 2. *c.* 3. *Vide* Hearth Money and Chimney Money.

Conſtables preſentable, who do not yearly in Eaſter-week call together the Pariſhioners, and chuſe Surveyors for the High-ways, according to the Statute. *Vide plus* in High-ways.

Conſtables can impriſon only in the Stocks, not in his houſe till he have convenient aid to carry an Offender to the Goal.

Conſtables

Constables (or Bailiffs) shall make up the Inquest, within the four next Vills before the Coroner.

A Constable, upon information that a woman is in Adultery or Fornication with a man, or gone to a suspected house in the night, may take company, and carry them to prison, or to a Justice to be bound to their good behaviour. *Dal.*

If a Constable voluntarily suffereth a Thief to drown himself, it is Felony; otherwise (without his assent) a negligent escape, finable. *Dal.* 379.

Vide plus in Escapes.

Constables (fined under forty shillings) that do not safely convey persons to the House of Correction, 7 *Jac.* 4.

Vide plus in Affray, Arrest, Prison, Rogues.

Conventicles.

Those are sometimes called Conventicles, wherein many do impart with others their meaning to kill a man; or to take anothers part in all things. *Lam.* 173.

Champerty also, maintenance, conspiracies, confederacies and giving of Liveries, other than to menial Servants and Officers, be contained under the word Conventicles. *Lam. ibid.*

The Statute 35 *El. c.* 1. declared to be in force, and further remedies against the dangerous practises of seditious Sectaries, and other Meetings in Conventicles, under colour of Exercise of Religion. *Vide* the Act at large, being upon continuance for three years after the end of the Parliament, of the sixteenth year of King *Charles* the Second, and to the end of the next Session of Parliament after the said three years, and no longer. 16 *Car.* 2. *c.* 4.

And the Act of 17 *Car.* 2. *c.* 1. *apud Oxon*, of the Oath and Declaration to be taken by non-conforming Ministers or Preachers, in the last Abridgment of th

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Statutes, title *Nonconformists* in the Appendix. And see *Quakers.*

No Subject of sixteen years of age shall be present at any meeting under pretence of Exercise of Religion, where above five persons (beside the Family) are present, upon penalty of five shillings, and for the second offence ten shillings, and if poor, then upon penalty not exceeding ten pounds upon any person there at discretion. 22 *Car.* 2. Levied by distress, *&c.*

Every Preacher in such Conventicle shall forfeit twenty pounds, levied by distress, *&c.* and if unknown, or cannot be found, or unable, levied on the Goods of any person present: for the second offence forty pounds, levied and disposed as before. *Ib.*

Appeal lies to the Sessions for a sum charged above forty shillings, and treble costs shall be given, if Judgment shall not be for the Appellant, or be not acquitted, or do not prosecute.

Justices, Constables, *&c.* may enter within the place, and if they cannot suppress the Conventicle, any Commission-Officer, or Ministers of Justice with Soldiers, *&c.* may prevent or dissipate them. But no Lords House searched but by the Kings Warrant under his Sign manual, or in presence of the Lord Lieutenant, or Deputy Lieutenant, or two Justices, one being of the Quorum. *Ib.*

Constable knowing, and not giving information, but refusing to go in aid, forfeits five pounds, and a Justice of Peace, or Magistrate an hundred pounds. *Vide* 2 *Car.* 22.

Conies. Vide *Hunting.*

Conviction.

Is, where one indicted of Felony, *&c.* upon his arraignment submits to be tryed by the Country, and is found

found guilty by verdict of the ſecond Jury; or confeſſeth the fact; or is out-lawed, and ſo pronounced at the County Court, &c. Goods and Chattels are forfeit preſently upon conviction.

Where a penalty is appointed by Statute, upon conviction of a third offence, it is intended, there ought to be conviction for the two firſt. *Dal.* 79.

Corn.

Certificate of one Juſtice of Peace, joyned with the Cuſtomer of the place, of unlading and ſelling of Corn, Grain, or Cattel, carried by water from one place to another of this Realm, unto the Cuſtomer and Controller of the place where the ſame was imbarked, is ſufficient upon the ſtatute of foreſtalling. 5 *Ed.* 6. 14. 13 *El. c.* 25.

One having ſufficient Corn, buying ſeed, without bringing ſo much as he buyeth, to ſell the ſame day as the Market goeth, loſeth double. 5 *El.* 6. *cap.* 14. *Law.* 451.

Vide plus in Tranſportation.

Cutter, and carriers away of Corn. Vide *Hedge-Breakers.*

Coroners.

The Lord Mayor of *London* is Coroner there. 2 *Cro.* 531.

The Chief Juſtice of the Kings Bench is Soveraign Coroner for all *England.* 4 *Co.* 57. b.

And he upon view of the body of one killed in open rebellion, as Coroner, may make a record returnable to *B. R. Ib.*

Writs ſhall be awarded to the Coroners, where the Sheriff is party; the Writ of Covenant in a Fine, *Venire facias, &c.* 2 *Cro.* 416.

One perſon may be Coroner of the Kings Houſe (*Hoſtel*) within the verge, and of the County too. 4 *Co.* 46. b.

But where ſeveral, one cannot intermeddle within the others Juriſdiction. *Ib.*

Coroners, as Miniſters, muſt all joyn. 4 *Co.* 57. b.

The Coroner, to whom a Writ of Eſtrepement is directed, is to provide againſt waſte by taking the *Poſſe Comitatus*. *H* 70. 85.

The Coroner is to have *viſum corporis* of a priſoner dying in goal by reaſon of the Gaolers dureſs. 4 *Inſt.* 91.

Appeal or Accuſation by an Approver entred before the Coroner. 3 *Inſt.* 129.

The Inqueſt before the Coroner is to be of perſons within the four next adjacent Vills, made by the Bailiffs or Conſtables: and no challenge to any of ſuch Inqueſt. 1 *Cro.* 135.

A Coroner may be removed for being *minus idoneus*. 5 *Co.* 58. b.

Coroners concealing, and not doing their Office through fear, or for prayer, or affinity, ſhall be fined and impriſoned for a year, or three years, if he cannot pay the fine, by 3 *Hl.* So of other Officers.

Coroners ought to certifie their Inquiſitions at the General Goal-delivery, and not at the Seſſions. 1 & 2 *P. & M.* 13. *Lam.* 365.

Coroners being parties to the exigents, and Judges of the Out-lawry, ought to be preſent at the Seſſions. *Ibidem.*

Coroners are Conſervators of the Peace, and may in ſome caſes commit men to priſon. *Ib.*

No Traverſe to an Indictment before the Coroner *ſuper viſum corporis*. 3 *Inſt.* 55.

Coroners may be convicted of offence againſt the Statute of 1 *H.* 8 *c.* 7. by examination of witneſſes and touching extortion, or not executing their Office before a Juſtice of Peace. *Cro* 130. b. *Lam.* 434. *Viplus* in Fees.

Coroner.

Coroners Fees. Vide *Fees.*

Cottage.

A ſmall Houſe without Land is a Cottage, by 31 *El.* 1. *Inſt.* 56. b.

Any erecting, or converting any dwelling to be uſed as a Cottage for dwelling, unleſs he lay four acres of his own free-hold inheritance lying near to the ſaid Cottage, to be continually manured therewithal ſo long as that Cottage ſhall be inhabited, forfeiteth ten pounds; except in a City, corporate or Market Town, or ancient Borough, or being the dwelling houſe of workers in Minerals, Coal-mines, Quarries of ſtone or ſlate, makers of brick, tile, lime, or coal, not being above a mile from the works, and only uſed for the habitation of ſuch workmen, or for ſailers, or men of manual occupation, for the making, furniſhing, or victualling of Ships, and being within a mile of the Sea at the ſide of ſome navigable river; or a Cottage for the keeper of Forreſts, Chaſe, Warren or Park, or Cottage for a common Herdſman or Shepherd of any Town, or wherein any poor, lame, ſick, aged, or impotent perſon ſhall dwell; or hath been decreed to continue for a dwelling by the Juſtices of Aſſiſe or of the Peace in open Aſſiſes or Quarter Seſſions. 31 *El. c.* 7. 39 *El. c.* 3. 43 *El.* 2. *Lam.* 476. 35 *El. c.* 6. for continuing the Cottage forty ſhillings a month.

None to maintain or uphold any cottage, not having four acres to it, except as before, *Ibid.*

Owner or occupier of a cottage muſt not ſuffer more houſholds than one to dwell in a cottage. 31 *El c.* 7. except it be by order of the Juſtices at the Quarter Seſſions, with leave of the Lord of the Waſte, at the charge of the Pariſh, Hundred, or County, 39 *Eliz. c.* 3. 43 *El. c.* 2. *Lam.* 611. Offences againſt the Sta-

tute of Cottages and Inmates, are to be heard and determined at the Quarter Seſſions. 31 *El. c.* 7. *Lam.* 614. and a Decree may be made at the Quarter Seſſions for continuance of a cottage that hath not four acres of Land. *Ibid.*

A Decree may be made at the Quarter Seſſions for the continuance of a Cottage that hath not 4 acres of Land. And the Juſtice may inquire, hear and determine of Cottages and Inmates againſt the Statute of 31 *El. c.* 7. *Lam.* 614.

Church-wardens and Over-ſeers may, by the Lord leave, under his Hand and Seal erect Cottages for the poor. 43 *El.* 2.

County.

A Juſtice of Peace in one County purſuing a Felon into another County, where he is taken; he ſhall committed to the Goal of the County where he was ken. *Dal.* 491.

Of Attainder of a Felon in the ſame County, all bound to take notice, be it by Verdict, Confeſſion, Outlawry.

But otherwiſe it is of a Receiver of a Felon in another County; not acceſſary. *Dal.* 398.

Acceſſary in one County to Murder, or other Felony in another, ſhall be indicted where the Acceſſaries offence was, and tryed by Juſt. of Goal delivery, *Oyer, &c.* writing firſt to the *Cuſtos Rot.* to certifie whether the Principal were attaint, convict, or diſcharged 2, 3 *Ed.* 6. *Dal.* 75.

A Bridge lying between two Counties (not being known in which part it lies) the Indictment ſeems to be removable by *Certiorari*, notwithſtanding 22 *Car.* 2. *Dal.* 107.

If a Pariſh extends into two Counties, or part there of lies in a City, or Corporation, where they have Juſtices, the Juſtices of the County ſhall not inter-

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meddle (but in their limits) as to nomination of Overſeers for the Poor; binding Apprentices, &c. And the Overſeers ſhall (without dividing) execute their Office in all places within the Pariſh, but ſhall give up ſeveral accounts. *Dal.* 156.

One robbed in *Middleſex*, makes Hue and Cry freſhly into *Eſſex*, if the Towns adjoyning do not according to the Statute of *Winton*, he may bring Action of Debt in one County, or in the other. 15 *Edw.* 4. 18. *Dal.* 217.

Cozeners and Cozenage.

Any falſly and deceitfully getting into his poſſeſſion money or goods of other mens, by colour of falſe privy tokens or counterfeit letters, and convicted thereof at the Quarter Seſſions by examination of Witneſſes, ſhall ſuffer any corporal puniſhment, except death, 33 *H.* 8. *c.* 1. *Cro.* 83. 2. 130 b. *Dal.* 62. *Lam.* 442, 535, 569. 609.

Two Juſtices of Peace, one being of the Quorum, may bind over to the next Seſſions any ſuch ſuſpected perſon; or may impriſon or bail them until the next general Seſſions. *Dal.* 62.

One Juſtice of Peace (as it ſeemeth) may bind Cheaters to their good behaviour, ſo to Aſſizes or Seſſions, or ſend them to the Houſe of Correction. *Dal.* 63. Eſpecially by order of Seſſions.

Counterfeiting a Paſs, puniſhed by Pillory and Fine, &c. *Dal.* 62.

Perſonater of any Soldier, Seaman, Labourer in preſence of Commiſſioners, Officers, Pay-maſter, to get money, ſhall be committed, and forfeit the double value for maimed Soldiers.

So for counterfeiting Tickets, committed by the Commiſſioners of the Navy. 22, 23 *Car.* 2.

Croſſes. Vide *Agnus Dei.*

Croſs-bows and Hand-guns.

Every perſon may attach an offender againſt the Statute, 33 *H.* 8. *c.* 6. and carry him to the next Juſtice of Peace in the ſame County. *Dal.* 65.

The Juſtice, upon due conſideration, may ſend the Offender to the Goal, till he have paid penalty of the Statute of 33 *H.* 8. *c.* 6. *ſc.* 10 li.

The Particulars of the ſaid Statute.

1. None under an hundred pounds *per annum* in his, or his Wives right, may ſhoot in, or keep Gun, Dag, Piſtol, Croſs-bow, or Stone-bow: on forfeiture of ten pounds a time.

2. No perſon may ſhoot in, carry, keep, uſe, or have any Gun under three quarters of a yard in length: if it be ſhorter, every one having an hundred pounds *per annum*, may ſeiſe the Gun, and muſt break it, or loſe forty ſhillings, if he break it not within twenty days, and keep the Gun ſo broke. *Lam.* 296. 480. But may keep the Croſs bow or Stone-bow. *Dal.* 92.

3. No perſon not having an hundred pounds *per annum*, may carry in his journey any Gun charged, or Bow bent, but only in time and ſervice of War, or going to the Muſters, upon forfeiture of ten pounds. *Dal.* 92.

4. None may ſhoot in a Gun near to a Market-Town, but in defence of his houſe or perſon, or at a But. *Dal.* 92.

5. The Maſter may not command the ſervant to ſhoot, except at a But or Bank of earth, or in War. *Dal.* 93.

Exceptions out of the Statute.

1. Shooting at a But or Bank of earth by Servingmen

men, whoſe Maſters are inabled by Statute. *Dal.* 93.

2. Inhabitants of Market Towns. *Ib.*

4. Dwellers alone, or near the Sea-ſide. *Ib.*

5. Gun-makers, or Gun-ſellers. *Ib.*

6. Thoſe that have Placards may ſhoot according to their Placards. *Ib.*

Any under the value of an hundred pounds *per annum*, licenſed to ſhoot in Croſs-bow or Hand-gun, is to preſent his name to the next Juſtice, by him to be preſented, and recorded at the next Quarter Seſſions, or elſe the Juſtice to loſe twenty ſhillings. 2 *Ed.* 6. *c.* 14. *Lam* 301. *Quære* if this be now in uſe.

Any licenſed at Quarter Seſſions to ſhoot in Hand-gun or birding-piece for Hawks-meat, is to ſhoot only at Fowl not prohibited, and to be bound in twenty pounds. 1 *Jac. c.* 27.

Any two Juſtices of the Peace may commit to the Goal for three months any that ſhoot with Gun, or Bow, at any Partridge, Pheſant, Houſe-dove, Mallard, or ſuch Fowl; or at any Hare. 1 *Jac. c.* 27. *Dal.* 93, 142.

If any perſon not having Lands, *&c.* of the yearly value of forty pounds, or not worth in Goods two hundred pounds ſhall uſe any Gun, Bow, or Croſs-bow, to kill any Deer or Conies (except ſuch perſon ſhall have any ground incloſed, uſed for the keeping of any Deer or Conies, *&c.* or to be Keepers or Warreners) any perſons having in lands an hundred pounds by year in fee or for life, may take from ſuch offender ſuch Guns, Bows, or Croſs-bows, and keep them to his own uſe. 3 *Jac. c.* 13. *Dal.* 92.

Curriers. Vide *Leather.*

Cuſtomer. Vide *Corn.*

Cuſtos Rotulorum.

Cuſtos Rotulorum muſt be by Bill ſign'd by the King, a Warrant to the Chanc. *Dal.* 64.

Cuſtos Rotulorum hath the cuſtody of the Records, and of the Commiſſion, and ought to ſee that they be brought to the Seſſions. *Lam.* 387.

Cuſtos Rotulorum hath the cuſtody of Indictments, Preſentments, Bills, Recognizances, *&c.* Records of Seſſions, by the laſt *Aſſignavimus*. *Dal.* 19.

Cuſtos Rotulorum is always a Juſtice of the Quorum. *Lam.* 387.

Cuſtos Rotulorum alone cannot ſummon a Seſſions, ſeeing that he hath no more authority in that behalf than any of his fellows have. *Lam.* 382.

Cuſtos Rotulorum hath not cuſtody of ſpecial Records, of Riots, Precepts of Peace, *&c.* not pertaining to the Seſſions. *Dal* 19.

The *Cuſtos Rotulorum* ſhall certifie whether the Principal in one County be attainted, *&c.* in order to Trial of the Acceſſary in another County. *Dal.* 75.

Cutpurſe.

1. Taking of the Goods of another to the value of twelve pence from his perſon into his own poſſeſſion, without aſſault or fear, is felony without Clergy. 8 *El. cap.* 4. *Lamb.* 270. *Dal* 365. & *Lamb.* 422, 566.

But it will not amount to felony unto death, unleſs the thing taken be of the value of twelve pence. *Lam.* 270. *Dal. Quare.*

The Thief muſt have an actual poſſeſſion of the thing ſevered from the perſon of the Owner. *Lam.* 271. *Dal.* 365. *Gro.* 35. 2. *mu.* 17.

As cutting a Girdle, to which the Purſe hangs, and letting it fall, never taking it up, being ſpied, it is no felony.

But

But if he held the Purſe when he cut the Girdle, it is, tho he take it not up, being fallen with the Girdle to the Ground. *Dyer.* 224.

Cutting out of Tongues.

Cutting out of Tongues, and putting out eyes, is Felony, if it be done of ſet purpoſe. 5 *H.4.c.*5. *Lam.* 420.

So cutting off (or ſlit) the Noſe, or Lip, *&c.* 22, 23 *Car.* 2.

Cutting of a Pond Head.

Deſtroying of the Head or Damm of any Pond, Moat, Stew, or ſeveral Pit wherein Fiſhes are put by the Owner thereof, or wrongfully fiſhing in any of the ſame, to the intent to take away the fiſh againſt the Owners will. 5 *El. c.* 21. *Lam.* 446. See 3 *Jac. c.* 13. he is to ſuffer imprisonment, and to be bound to his Good Behaviour for ſeven years. *Vide* Fiſh.

Deer and Deer-hays.

Juſtices of Peace may not receive an Indictment for killing a Hart proclaimed, for the Juriſdiction of it belongeth to the Juſtices of the Forreſt. 21 *H.7.c.*30. *Lam.* 505.

One convicted of unlawful taking (or killing of Deer) with Nets called Deer-hays, or Buckſtals, muſt pay treble damages to the party, three months imprisonment, and after to remain there till he put in Sureties for the Good Behaviour for ſeven years. 5 *El. c.* 21. 3 *Jac. c.* 13. *Lam.* 571.

To ſell, or buy to ſell, any Deer, Hare, Partridge, or Pheſant, except Houſe-Partridge or Pheſant, or brought from beyond the Seas, loſeth for every Deer forty ſhillings, every Hare, or Partridge ten ſhillings, and every Pheſant twenty ſhillings. 1 *Jac. cap.* 27.

For ſtalking Deer with Buſh or Beaſt, without licenſe, forfeiture of forty pounds. 19 *H.* 2. 11.

Vide plus in Hunting, Buckſtals.

Demurrer.

If one indicted demurreth upon the evidence, the Juſtices ought ro record it. *Lam.* 539.

Deodand.

Is, when any moveable thing inanimate, or beaſt animate, move to, or cauſe the untimely death of any reaſonable creature, in any County (not on the Sea, or Salt water) without the will, offence, or fault of himſelf, or any perſon. Things thus found by Inquiſition *pretium ſanguinis* are given to God, that is forfeit to the King. 3 *Inſt.* 57.

The Jury muſt appraiſe it, and the Sheriff charged with the price, ſhall levy it of the Town, tho not commicted to the Town.

A Ship or Boat upon the River (not Sea) is forfeit, but the King will conſider it, and be favourable.

When a perſon within age of diſcretion (fourteen years) is killed by a fall from a Cart, Horſe, Mill, &c. there is no Deodand. 6 *Ed.* 2. *Coron.* 3. 9. But if an Ox, Horſe, &c. kill him, it is a Deodand.

The price of a Deodand ſhall be diſtributed in Alms by the Kings Almoner.

So the Apparel, and money about one found dead in the field, given to the Poor, if he were unknown; elſe to his Executors, &c. but no Deodand in neither Caſe. *Stamf.* 21.

The

The Sword of a ſtranger killing a man is forfeit, for default of ſafe keeping, and a Deodand. 3 *Inſt.* 58.

Deputy.

The Clerk of the Peace his Deputy admitted by the *Cuſtos Rotulorum*.

A Conſtable may make a Deputy.

The Sheriff appointed Collector for Chimney-money, may make his Deputy under his hand and ſeal. 15 *Car.* 2. *cap.* 13.

So to have the ſame remedy for injury, as the Collector. 16 *Car.* 2. *c.* 3.

A Judge cannot make a Deputy *Lam.* 64.

Divine Service.

Any above the age of ſixteen years, that repaireth not faithfully and diligently to his Pariſh Church or Chappel accuſtomed, or upon ſome reaſonable let to ſome uſual place, where Common Prayer is to be uſed upon every Sunday and other Holy-days, and hath not there orderly and ſoberly abiden during the time of ſuch Common Prayer, Preaching, or other ſervice of God, loſeth twelve pence for every ſuch offence, to be levied by the Churchwardens, to the uſe of the poor of the ſaid Parſiſh, and to be puniſhed by the cenſures of the Church. 1 *El. c.* 2.

It is lawful for one Juſtice of Peace in the Limit, Diviſion, or Liberty where the offender dwelleth, in not coming to Church, according to 1 *El. c.* 2. upon proof of default, by confeſſion of the party, or oath of witneſs, to call the party before him; and for want of ſufficient excuſe and proof thereof, to the ſatisfaction of the ſaid Juſtice, the ſaid Juſtice may give his Warrant to the ſaid Church-warden of the ſaid Pariſh, under his hand and ſeal, to levy twelve pence for every default by diſtreſs; and in default thereof, to commit the

the offender to priſon till payment made. 3 *Jac. c.* 4. *Vide plus* in Recuſants, and Sunday.

Dogs. Vide *Hunting, and Partridges.*

Drovers. Vide *Badgers.*

Dyer. Vide *Cloth, Logwood.*

Drunkenneſs.

Any Juſtice of Peace, upon his own view, confeſſion of the party, or proof of one witneſs upon Oath, hath power to convince any perſon of Drunkenneſs. 21 *Jac.* 7.

Any, within ſix months after the offence committed, lawfully convicted of Drunkenneſs, loſeth five ſhillings, to be paid after conviction to the Church-wardens of the Pariſh where the offence ſhall be committed; and refuſing and neglecting to pay the ſame, to be by Warrant from the Juſtice convicting levied on his goods; if he be unable, to be ſet into the Stocks ſix hours: and upon conviction of the ſecond offence to be bound with Sureties in ten pounds to his good behaviour. 4 *Jac. c.* 5. and for want of Sureties to be ſent to the Goal.

If the Officer charged is negligent in levying or in correcting, he loſeth ten ſhillings, to be levied and diſpoſed as the penalty it ſelf 4 *Jac. c.* 5.

Church-wardens to be accountable to the uſe of the Poor for the penalties by them received upon the Statute of Drunkenneſs. *Ibid.*

Conſtables, Church-wardens and Tything-men, in their Oaths for their Office, are to ſwear to preſent offences againſt the Statute of Drunkenneſs. 4 *Jac* 5.

The offender muſt be preſented, *&c.* within three months after the offence.

Offences

Offences againſt the Statute of Drunkenneſs to be inquired after, and preſented before the Juſtices of Aſſiſe, or Juſtices of Peace at their Seſſions, and proceeded upon ordinary indictment. *Ib.*

Offenders againſt the Statute of Drunkenneſs not to be twice puniſhed for the ſame offence. *Ibid.*

If a man drunk kills another, it is Felony; and Drunkenneſs doth not excuſe, but aggravate: *Peccat ebrius; Luat ſobrius. Vide Co.*

Eccleſiaſtic Cauſes and Perſons.

ECcleſiaſtic perſons are ſubject to arreſt for the Peace, unleſs they be attendant on Divine Service. *Lam.* 93. *Dal.* 168.

They cannot determine Criminal matters, nor impeach a Sentence at Common Law. *Hob.* 121.

Vide plus in Treaſon.

Eggs of Wild-fowl.

Eggs of any Wild-fowl uſually eaten, taken from the place where they were layed, or deſtroyed betwixt the firſt of *March* and the laſt of *June*, one years impriſonment, and loſe after the rate for each Egg, *viz.* Eggs of Crane or Buſtard twenty pence, Bittern, Heron, or Shovelack eight pence, Mallard, Teal, and other Wild-fowl, one penny. 25 *H.* 8. *c.* 11. 3 *E.* 6. *c.* 7. *Lam.* 453.

To take away the Eggs of any Hawk out of the woods, or ground of any other perſon; three months impriſonment, and bound to his good behaviour for ſeven years. 5 *E.* 6. 21. *Lam.* 446.

To

To take or cauſe to be taken up in his own, or other mens grounds, the Eggs of any Falcon, Goſhawk, Lanner, or Swan, one year and a days impriſonment, and fine. 11 *H.* 7. *c.* 17. *Lam. ibid.*

Taker or willing deſtroyer of Eggs of Partridge, Pheſant, or Swan, upon conviction by confeſſion, or oath of two witneſſes before two Juſtices of Peace, where the offence or apprehenſion is; to be impriſoned three months; unleſs he pay to the Churchwardens of the Pariſh in one of the places to the uſe of the Poor twenty ſhillings. 1 *Jac. c.* 27.

Vide plus in Partridges, Pheſants, Fowlers.

Egyptians.

One Juſtice of Peace may, within one month after the arrival, ſeiſe all the goods of any outlandiſh perſons, calling themſelves Egyptians, that ſhall come into the Realm, or company with them, or diſguiſe themſelves like them, and keep to his own uſe the one moiety, accounting in the Exchequer for the other, reſtoring to them again their goods, that prove by two witneſſes that they were craftily or feloniouſly ſtollen from them; upon pain of forfeiture of double the value to the prover. 22 *H.* 8 *c.* 10. *Dal.* 65. *Lam.* 195, 228, 371, 427.

After the month it is Felony, and then they ſhall have the whole. 1 and 2 *Ph. & M.* 4. And Clergy is taken away. 5 *El.* 20. *Quære* whether the Statute 22 *H.* 8. be ſtill in force, or altered by the Statute of 1 & 2 *P. & M. c.* 4.

Embezeling of Record. Vide *Records.*

Embracer. Vide *Maintainer.*

Enditements.

Enditements.

Enditement is the verdict of Jurors that be charged to enquire of the offence that is preſented to them. *Lam.* 486.

All Enditements ought to contain certainty, and ſhall not be taken by intendment. 4 *Co.* 44. b.

And therefore five principal things be requiſite in Preſentments. *Lam.* 487.

1. The Name, Sirname, and Addition of the party endited.

2. The year, the day, and place in which the offence was done.

3. The name of the perſon to whom the offence was done.

4. The name and value of the thing in which the offence was committed.

5. The manner of the fact, and the nature of the offence; as the manner of the Treaſon, Murder, Felony, or Treſpaſs *Lam.* 487.

Enditement of the acceſſary to Felony, muſt contain the name of the principal. *Lam.* 484.

Miſnomer in an Enditement ſhall not be made good by an *Alias dictus*. *Lam.* 490.

The Addition in forcible Entries and other Enditements coming after the *Alias dictus*, not good. 3 *Cro.* 198.

Where the name of the party offended cannot be known, it may be *cujuſdam ignoti*, becauſe of the Kings advantage thereby by forfeiture. *Lam.* 494.

Any certainty whereby the day and year may be known, is ſufficient. *Lam.* 491.

An offence done before midnight, muſt be ſuppoſed the day before; if after, then the day after. *Lam.* 492.

One ſtriketh one day, whereon he languiſheth, and dieth on another; the Enditement muſt ſuppoſe the

the laſt day on which he died. *Lam.* 491.

Enditement ſuppoſing the fact done a day not come, is not good. *Lam.* 492.

Enditement or Preſentment for an omiſſion, as, *A* hath not ſcoured ſuch a ſewer, needs not to ſet down the day nor year. *Lam.* 492.

Enditement ſuppoſing an offence done at two ſeveral times, not good. *Lam.* 492.

Enditement of a Conſtable for permitting a Felon to eſcade, not ſhewing for what Felony, nor when committed. 3 *Cro.* 752.

Enditement not expreſſing the day when the Seſſions was held. 4 *Co.* 48. 2.

Certainty of the place.

If no place be named where the offence was done, or a place be named, whereas in truth there is no ſuch place, the Enditement is void. 9 *H.* 5. *c* 1. 18. *H.* 6. *c.* 12. *Lam.* 493.

If the ſtroke or poiſoning be in one County, and the death in another County, the Enditement in the County where the death is ſhall be good. 2 & 3 *Ed.* 6. *c.* 24. *Lam.* 493.

In forcible entry, *Ad Seſſ. Patent. apud B*, not ſhewing the County: ſo not ſhewing before what Juſtices of Peace. 3 *Cro.* 738

In Forgery, taken before the Juſtices of Peace, at their Seſſions, where it ſhould have been at the Aſſiſes, or *Oyer* and *Terminer*. 3 *Cro.* 87.

Certainty of the perſon to whom the offence is done. Lam. 494.

The goods of a Parſon of a Church, *Bona Rectoris.* *Lam.* 468.

The goods of the Church, *Bona parochianorum in cuſtodia Gardianorum Ib.* The

The goods of Major and Communalty, and the Major dieth before the Enditement, *bona communitatis. Quære*, becauſe they have no ſuch name of Corporation.

Goods taken in a mans life-time, and he maketh executor and dieth, *bona Teſtatoris.*

Goods taken after his death, *Teſtatoris in cuſtodia Executorum.*

Goods hanging over a Tomb, *Executoris.* A Graveſtone, *bona Eccleſiæ.*

My goods are taken by a treſpaſſor, and taken from him again, the Enditement ſhall be [*bona*] of him that had the laſt poſſeſſion. *Lam.* 496.

Of the owner in the keeping of the bail, where they were taken from the Baily. *Lam.* 496.

Bona Capellæ in cuſtodia, or *bona domus*, or *Eccleſiæ tempore vacationis*, is good. *Lamb. ib.*

The name of the thing muſt be compriſed. *Lamb. ibid.*

Bona & catalla in treſpaſs, or felony, is not good.

If dead things, it may be *bona & catalla*, expreſſing the names thereof in certainty.

If living things, it ſhall not ſay, *bona & catalla*; but *equum, bovem, ovem, &c. ibid.*

The value is to be declared in felony to make it appear Petty Larceny; in Treſpaſs to aggravate the fault.

Enditment of things *feræ naturæ*, as Deer, Hares, Partridges, or Pheſants, is not good, unleſs they be taken in a Park or a Warren that be Liberties. *Lamb.* 469. 497.

Chatters, their value cannot be eſteemed. *Ib.*

It muſt be ſaid [*pretii*] of living things. *Lamb.* 497.

So of dead things in the ſingular number. *Ibid.*

So of things that go by weight and meaſure. *Lamb.* 497.

So of coin not currant, *Ibid.*

It must be said, *ad valentiam*, of dead things in the plural number, not going by weight and measure. *Lam.* 497.

Coin counterfeited. *Ibid.*

Where the number ought to be expressed, as of the taking of Doves in a Dove house; or young Hawks in a wood; there it must be [*pretii*] or *ad valentiam*. *Lam.* 497.

Coin currant carrieth his value with it. *Ibid.*

The very manner of the fact, and the nature of the offence ought to be mentioned. *Lam.* 498.

And in *vocabulis artis*, words so essential, that they cannot be expressed by any other to the same effect.

Nature of the Offence.

Treason must have [*Prodiotrie.*]

Murder *Murdravit.* which implyeth *ex malitia præcogitata. Lam.* 500. *Cro.* 101. a. 103. b. and [*murderavit*] nought. 4. *Co.* 406.

Burglary, *burglariter.* Enditement not set aside for [*burglariter*] being as good a word. 3 *Cro.* 920. 4 *Co.* 39. b.

Felony [*felonice*] *ib.* so Petty Larceny [*felonice*]

In rape, *felonice rapuit. Lam.* 501.

And an Enditement having *rapuit & carnaliter cognovit*, tho *tantamount*, is erroneous without the word [*felonice*] 2 *Cro.* 20.

Furatus seemeth good without *felonice. Vide* 2 *Cro.* 20. *e contra.* So not saying, *de bonis, &c.* but, *cujusdam &c.* omitting *de bonis, &c.*

In Felony, *cepit* alone, or *abduxit*, or *asportavit* not good. *Lam.* 501. but *cepit & abduxit.*

In Trespass or Felony, the words *contra pacem* must be used. *Lam.* 502.

In Forcible Entry *vi & armis* is needless, *ibid.* but *contra pacem* material, or the Enditement may be quashed, 2 *Cro* 32. 3 *Cro.* 186.

Upon

Upon a Statute, *contra formam ſtatuti in hujuſmodi caſu editi & proviſi. Ibid.*

Where many Statutes concern one offence, *contra formam diverſorum Statutorum.*

In Enditement of Perjury, *falſo & corruptive*, is not good without *voluntarie* too, tho it be in the concluſion, *& ita voluntarium commiſcre perjurium.* 3 *Cro.* 147. 201.

In Enditement of Burglary the omiſſion of [*maliciose*] is fatal. 9 *Co.* 118. b.

Note. If an Enditement be faulty, as upon a Statute, it cannot be good as at Common Law; as in Forcible Entry upon *H* 8. 6. miſrecited, *vel aliquod Feffamentum*, where it ſhould be, *poſt tale ingreſſum aliquod Feffamentum*, &c. it ſhall not be good for a Riot, tho it was *riotoſe*, &c. becauſe the Enditement began, and concluded with the Statute *contra formam Statuti.* 3 *Cro.* 307. 697.

Where after an acquittal one ſhall be endicted for the ſame felony.

Where the firſt Enditement was void for inſufficiency of matter of felony. *Lam.* 556.

Tryal in a wrong County. *Ibid.*

Miſpriſion of the party that ſhould bring the Action.

Where the firſt Enditement was as principal, the ſecond Enditement as acceſſary to the ſame felony after the fact. *Lam.* 557.

Where he ſhall not be again endicted.

Where the Enditement was good.

Tho it were by another name, if he be known by both. *Lam.* 555.

Tho it ſuppoſe the ſame felony done in another year. *Lam.* 556.

Tho the Proceſs was erroneous. *Ibid.*

Enditement at the Sheriffs Turn lawfully taken, muſt be taken by the Juſtices, and by them received. 1 *E.* 4. *c.* 2. *Lam.* 504.

No Enditement can be taken, nor enquiry made, but before two Juſtices, one to be of the Quorum. *Lam.* 48.

Enditement upon a penal Statute, whereof the King is only to reap the forfeiture, muſt be within two years after the offence.

And where a common perſon is, it muſt be within one year, except the Statute do otherwiſe direct. *Lam.* 487.

Conſtable preſents a fault at the Seſſion, which belongeth to his Office, which is allowed by the Inqueſt, it is good: otherwiſe it ſhall not ſerve for an Enditement. *Crom.* 123. b.

A man may be indicted for the King upon any penal Statute. *Cro.* 101. 2. *nu.* 3. 109. 2. *nu.* 3.

If there be two Villages in one Pariſh, the Indicte ſhall be named of ſuch a Village *in parochia de A* and not of the Pariſh only. But if there be but on Village there, the name of the Pariſh only, or th name of the village only, or of the village in ſuch a pariſh is ſufficient. And ſo if there be divers hamlets *Cro.* 102. 2. *nu.* 16.

In an Enditement, *Si ſit de pecunia numerata expri mere debet numerum & genus pecuniæ: ſi maſſa rudi tum valorem: ſi formata, tum qualitatem & pretium ſi ſit pannus, tunc colorem, pretium, & numerum u narum, ſi animal, tunc genus, pilum, & pretium; quod felonice cepit illud contra pacem.* Cro. 103. 2. nu 35. Stam. 81.

Enquiry

Enquiry.

Juſtices of Peace may only enquire, and can proceed no further, as in

1. Certain offences againſt the Supremacy. 23 *El. cap.* 1.

2. Treaſons, and miſpriſions of Treaſon, made by the 23 *El. c.* 1.

3. Offences againſt the Statute of falſe rumors againſt the King. 23 *El. c.* 1.

Enquiry of a Forcible Entry. Vide *Forcible Entry.*

Enquiry by Preſentment. Vide *Preſentment.*

Enquiry by examination. Vide *Examination.*

Enquiry by information. Vide *Information.*

Eſcape

Is, when a priſoner eſcapes, or gets out of the view of the Goaler, or Keeper, and he may be taken again by freſh ſuit. *Dal.* 379.

Conſtable arreſteth one that hath hurt another, and voluntarily ſuffereth him to eſcape, and he that was hurt dieth thereof within a year and a day; the Conſtable ſhall make a Fine to the value of his goods, but it is no Felony. *Lam* 134.

To ſuffer a Felon willfuly to eſcape, is felony; but a negligent eſcape is only to be fined. 1 *E.* 2. *Lam.* 440. *Dal.* 380.

Willful eſcape of one arreſted for Larceny, Manſlaughter *per infortunium, ſe defendendo*, is not felony; if the act were not Felony at the time of the Eſcape. *Lam.* 230. *Dal.* 381. *Crom.* 39. 2. *nu.* 5.

Willful eſcape by the Goaler, or Keeper of a Felon, is Felony in the Goaler, not in the Felon: if the eſcape be cauſed by a ſtranger, it is Felony. *Lam.* 229. *Dal.* 379.

Eſcape ſuffered by him that receiveth a known Felon, is no felony. *Lam.* 230. but ſhall be acceſſary, for that he was not arreſted. *Cro.* 39. 2. *nu.* 4.

If a Priſoner be reſcued at the Gallows, or going to execution, this is an eſcape, and breach of Priſon, and felony within the Stat. 1 *H.* 7. 6.

Vide plus in Priſoners.

A Priſoner under arreſt only eſcaping, the eſcape muſt firſt be preſented, before he that ſuffered the eſcape ſhall anſwer it. *Dal.* 378, 381.

A Juſtice ſendeth for a Felon out of the goal, and freeth him without bail; it is Felony in the Juſtice. *Dal.* 380.

A Juſtice *pro defectu ſcientiæ* baileth one not bailable, it is but a negligent eſcape. *Cro.* 39. b. *nu.* 4. *Dal.* 382.

The Goaler marries the Felon in his Goal, this is an eſcape. *Quære* if Felony. *Dal.* 379.

Offender upon his examination before a Juſtice confeſſeth the Felony, who letteth him go without commitment or bail; it is a voluntary eſcape, and ſo felony in the Juſtice. *Cro.* 39. 2. *nu.* 7. 44. 2. *Dal.* 382.

A Town not walled muſt anſwer the eſcape of a Manſlayer in the day-time. 1 *Cro.* 40. b. *nu.* 1. *Dal.* 402.

The Hundred muſt anſwer for a man ſlain out of the Town, and for inſufficiency the County ſhall be charged. *Dal.* 403.

Goaler, or other Officer, ſuffereth his priſoner to go abroad for a time, though the priſoner return as he was preſcribed, or let his priſoner go by bail or baſton; it is a negligent eſcape, and finable. But *quære*, for priſoners ought to be kept *in ſalva & arcta cuſtodia*. *Dal.* 379. *Cro.* 39. b *nu.* 5.

A

A Conſtable voluntarily ſuffereth a Thief to drown himſelf, this is felony in the Conſtable. But if the Thief (without the aſſent of the Conſtable) kill, hang, or drown himſelf, it is a negligent eſcape in the Conſtable. *Dal.*379.380.

Voluntary eſcape of one arreſted or committed for felony, is felony in the Goaler; if for Treaſon, it is Treaſon; if for Treſpaſs, it is Treſpaſs. *Dal.* 379.

An action upon the eſcape lies againſt a Goaler, where Thieves let priſoners at large: for he has remedy over. 3 *Cro.* 815.

Otherwiſe where the Kings enemies ſet the priſoners at large. *Ib.*

Eſcheators.

Eſcheators other than thoſe of a City or Borough, that take upon them the office, not having lands in the Shire of twenty pounds *per annum*, or for life at leaſt, or that hath ſold or ſet to farm the office, or made a Deputy for whom he will not anſwer, and whoſe name he doth not certifie within twenty days into the Exchequer, ſhall be fined forty pounds. 32 *E.*4. *c.*9. *Lam.*429.

Eſcheator taking for execution of any writ in any County above forty ſhillings, or forty ſhillings where the land is not held *in capite*, ſhall be fined forty pound. 23 *H.*6.*c.*17. *Lam.*430.

Eſcheator taking above fifteen ſhillings for finding an office not exceeding five pounds a year, loſeth forty pounds. 33 *H.* 8. *c.*22. *Lam.* 430.

Eves-droppers.

Eves-droppers which ſhall by night eves drop mens houſes; are to be bound to their good behaviour. *Dal.* 293. *Vide* good behaviour.

Evidences.

Juſtice of the Peace muſt bind over informers for felony, to appear and give evidence againſt the felon at the next general Goal delivery. *Dal.* 72.

Juſtice of Peace muſt bind ſuch as declare any thing material to prove the Felony, to appear at the next Goal-delivery, and give evidence. *Dal.* 72, 406, 407.

If he which giveth evidence of Felony to a Juſtice of Peace againſt another, will not be bound to give evidence at the Aſſiſes, he ſhall be committed, or bound to his good behaviour. *Cro.* 102. b. *nu.* 26. *Dal.* 35.

Examination taken by a Juſtice of Peace in one County, may be certified into another County, and there read, and given in evidence. *Dal.* 303.

Eſtreats.

Eſtreats are the extracts of fines, forfeitures and amerciaments made by the Clark of the Peace by Indentures, the one delivered to the Sheriff, the other to the Barons of the Exchequer. *Lam.* 581.

Eſtreats of the penalty for ſhooting in guns, are to be recorded and ſent into the Exchequer by the Juſtice that had the examination of the matter. *Lam.* 297.

Sheriff, or his Miniſter, that ſhall levy any of the Kings debts, without ſhewing the party the eſtreats under the Exchequer Seal, ſhall be fined, and pay treble damages to the party. 42 *Ed.* 3. *cap.* 9. 7 *H.* 4. *c.* 3. *Lam.* 432.

He that eſtreateth iſſues of others than ſuch who were chargeable or charged, loſeth five Marks to the King, and as much to the party. 27 *Eliz. cap* 7. *Lam.* 432.

Eſtreats of the Juſtice of Peace, of Fines aſſeſſed upon

upon preſentments in the Turn, being inrolled and indented, are to be levied by the Sheriff, *&c. Vide* Turn, *&c.*

Examination.

Felon brought before a Juſtice, muſt be examined before he be committed to priſon, and the information of thoſe that bring him muſt be put in writing within two days after, and the party bound to appear and give evidence at the next Goal delivery. 2 3 *P. & M. c.* 10. *Lam.* 212. *Dal* 72. 406.

Where the accuſer cannot, or will not inform any material thing, yet the Juſtice may commit, *&c.* and if he hear of any other that can give material information, he may take it, and bind him over. *Stamf.* 163.

Before the Statute the examination of a felon was not warranted at the Common Law; for *nemo tenetur prodere ſeipſum*: but the offender ſhall not be examined upon oath. *Dal.* 411.

Circumſtances obſervable in examination of a felon. *Lam.* 218. *Dal.* 71. 406. *Cro.* 98. 2.

Examination and information certified to the Quarter Seſſions, and the informers bound thither in caſe of tryal there of Pety Larceny, and ſmall Felonies. 3 *H.* 7. 3.

A wife may not be examined, or bound to give evidence againſt her husband. *Stamf.* 26. b. 6. *Co.*

In the Lord *Audley*'s Caſe, the wife was *pars laſa*, and no other proof could be in the Caſe. 7 *Car.* 1.

But children may be examined againſt their Parents, and give evidence at the Tryal. *Dal.* 408.

In

In what offences Conviction ſhall be by Examination. Vide *the ſeveral offences.*

Conviction cannot be by examination only, but where the Statute giveth it neither, by referring it to the diſcretion of the Juſtices, or ſpecially limiting it. *Lam.*534.

Where the Statutes limit conviction to be by examination general, a Juſtice of Peace may examine as well the offenders as witneſſes. *Lam* 535.

Where the examination of a Juſtice of Peace is the conviction of the party, it ought to be upon oath: but when it is but to inform the Jury upon that Inditement, it needs not. *Ibid. Lam* 536. *Vide Dal.* 261.

Examination of witneſſes is to be taken as well againſt, as for the King. *Dal.* 412. But *quære* whether it may be upon oath, which maketh againſt the King. *Ibidem.*

Confeſſion of an offender before a Juſtice of Peace is not conviction, except he confeſs the ſame again upon his Tryal or Arraignment. *Dal.* 415.

Juſtice of Peace may examine upon oath him that informeth againſt a felon: for the informer may die before the Aſſizes, and then the information without oath is not of ſuch validity. *Dal.*260. 411. *Lam.*215. *Cro.*194.2 *nu.*5.

Examination in one County may be certified into another, and given in evidence. *Y.* 2, 3. *Vide* Oath.

Extolling foreign power. Vide *Treaſon.*

Exciſe.

Exciſe.

All Forfeitures and Offences committed within the immediate limits of the Exciſe Office in *London*, ſhall be adjudged and determined by the Commiſſioners there. And other offences done within all other Counties, Cities and Towns, ſhall be heard and determined by any two or more Juſtices of the Peace reſiding near the place where the Forfeitures or offences ſhall be made, for which ſee the Act at large, or the Abridgment touching matters incident to the manner of proceeding by the ſaid Juſtices therein. *Stat.* 12 *Car* 2, *c.* 15. *Vide* the particular rates of all things exciſable. *Dal.* 66.

Vide the Oath of the Office to be taken with the other Oaths. *Dal.*67.

This Oath ſhall be certified by the Juſtices at the next Seſſions, there to be recorded. *Ib.*

No *Certiorari* ſhall ſuperſede execution, or other proceeding upon order by the Juſtices in purſuance of this Act.

Extortion.

Ordinary, Arch deacon, Official, Sheriff, Eſcheator, Coroner, Under-Sheriff, Bailiff, Goaler, or other Officer, that by colour of his Office taketh more than his Fee, or any fee or reward for expedition, or unlawfully exacteth any oath or other undue thing. *Lam.* 434, *&c.* 23 *H.* 6.

Any thing taken *colore officii*, is extortion; but *virtute officii* is allowable *Cro.* 57.b.*nu* 2.

The Sheriff or Goaler taking any of a Conſtable for bringing a Felon to the Goal, it is extortion. 4 *E.*3.*c.* 10 *Cro* 57.b.*nu* 5.

The Goaler takes eight pence of one in priſon to let

ſet him have liberty, eaſment, or favour, it is extortion. *Cro.* 59. 2. *nu.* 26.

If the Ordinary or his Miniſter take any thing, to allow a School-maſter to teach children. 23 *El. c.* 1. *Cro.* 58. 2. *nu* 13.

If the Ordinary take ought for Letters of Adminiſtration, or probates of Wills, where the Goods amount not to above five pounds, wherein the Writer ſhall have ſix pence only; or if they be above five pounds, and not forty pounds, the Ordinary two ſhillings ſix pence, and the Writer twelve pence, and if above forty pounds, the Ordinary two ſhillings ſix pence, and Scribe two ſhillings ſix pence, or one penny for every ten lines, ten inches long, at the Writers Choice. *Cro.* 61. *nu.* 52. 21 *H.* 8. *c.* 6. it is extortion, and the Ordinary forfeiteth ten pounds.

Vide Fees.

The Marſhal detaining a Priſoner after he is diſcharged by the Court, for any thing due to him but his fees. *Cro. ibid.*

The Ordinary citing a lay-perſon to appear in the Spiritual Court, to depoſe there as a witneſs. *Cro.* 59. b. *nu.* 35, 36, 37. & 60. *nu.* 44, 46, 48. & 231. 2. & *Fitz. F. P. ſol. penul.* it is extortion. *Vide plus* in Fees.

A man preſcribeth to have four pence of every one whoſe beaſts are taken in his ground, damage feſant being impounded, and to make amends to him at his will; it is extortion if he take it. *Crompt.* 58. b. *nu.* 18.

To take any thing for a Mortuary, contrary to the Statute, 21 *H.* 8. *c.* 6. where the Goods come not to twenty nobles beſides debts; or for a married woman; or infant; or one that keeps no houſe; or wayfaring man; or any that is not reſident where he died, is extortion. *Crompt.* 59. 2. *nu.* 27. 21 *Hen.* 8. *cap.* 6.

To take above three ſhillings four pence for a Mortuary, when the Goods amount to ten marks, and under thirty pounds, or above ſix ſhillings eight pence, where

where the goods are thirty pounds, and under forty pounds; or above ten ſhillings where the goods are above forty pounds, the debt payed, is extortion. *Cro.* 59. 2 *nu.* 28. 21 *H.* 8. *c.* 6.

Juſtices of Peace ſhall determine, *ex officio*, without ſpecial commiſſion.

Extortion an offence at Common Law, and to be proſecuted by Bill of Enditement at the Seſſions, *&c.* *Vide* Exacting bonds of the Kings Subjects to do their duty. 3 *Inſt.* 149.

Fairs and Markets.

HE that keepeth a Fair or Market in a Church-yard ſhall be fined. *Stat. Wint.* 13 *El.* 1. *cap.* 6. *Lam.* 419.

Fairs and Markets prohibited to be kept on a Sunday, by *Winch.* 6. 27. *Henr.* 6. 5. 1 *Elizab.* 2. 3 *Jacob.* 4.

And the Lord, of a Fair kept on a Sunday, may be indited at the Aſſizes, or Seſſions; therefore uſually kept three days before, or after, proclamation being made of the right day. 27 *H.* 6. 5.

A Court of Pipouders by Law is incident to every Fair, for Contracts, and Batteries. 3 *Cro.* 168.

Falſe Impriſonment. Vide *Arreſt.*

Falſe tokens. Vide *Cozeners.*

Feoffments.

Fees.

The Sheriff ſhall have upon arreſt by Bill, Writ, or Warrant, twenty pence; the Bailiff that maketh the Arreſt, four pence; the Gaoler, if he be committed four pence; and for the obligation four pence, and no more, on pain of forty pounds. 23 *H.6.c.*10. *Cro.* 58. b. *nu.* 18. 176. b. *nu.* 19.

The Goaler ſhall take no Fees of a Servant, Labourer, *&c.* committed for refuſing to ſerve. 34 *Ed.* 3. *cap.* 9.

Bailiffs of Liberties are to have like Fees as the Sheriffs and their Miniſters have out of Liberties, and like puniſhments for extortion. 27 *H.* 8. *c.* 24. *Lam.* 434. *Cro. ibid.*

Liberty ſeiſed for detaining priſoners after the Fees paid. 9 *Co.* 96. b. *Vide* Liberty.

Clarks to be fined.

Clark of the Peace, for taking above twelve pence for inrolling a bargain and ſale of Lands not exceeding forty ſhillings a year, or two ſhillings ſix pence, if it do exceed forty ſhillings a year, 27 *H.* 8. *c.* 16. and the Juſtice of Peace the like for taking above the ſaid ſums in the ſaid caſes. *Cro.* 59. a. *Lam.* 436.

For taking above two ſhillings for a licenſe and recogniſance of a Badger, Drover, Lader, or Kidder, and regiſtring the Licenſe of them both. 5 *El.c.*12. *ib.*

For taking above twelve pence for a Recogniſance of one that taketh a Rogue into his ſervice for a year. 14 *El. c.* 5. *Lam ib.*

For taking above twelve pence for a Licenſe and Recogniſance to ſhoot Hawks-meat. 1 *Jac. c.* 27.

Clark of a Juſtice of Peace to be fined for taking above twelve pence for a recogniſance of an Alehouſe-keeper. 5 *E.* 6, *c.* 25. *Lam* 436.

Coroner

Coroner refuſing to do his office of one ſlain by miſadventure without fees, loſeth forty ſhillings. 1 *H.* 3. *c.* 7. *Lam.* 434.

Coroner taking above thirteen ſhillings four pence for doing his office of one ſlain and murdered, of the goods of the Slayer and Murderer; if he have none of the Town where he was ſlain in the day, and was ſuffered to eſcape. 3 *H.* 7. *c.* 1. *Lam. ibid.*

Coroner exacting a noble for the view, and two ſhillings for his Clark, fined forty ſhillings. 3 *Inſt.* 149.

Majors to have for Sealing.

Buſhels and other meaſures, a penny.

Weights, *viz.* a hundred weight, one penny; half a hundred, a half penny; leſs a farthing: and taking above, they loſe forty ſhillings. 7 *H.* 7. *c.* 3. 11 *H.* 7. *c.* 4. *Lam.* 437.

Parſon, Vicar, or Curate taking above four pence for entring into the Church book licenſe to eat fleſh on fiſh days. 5 *El. c.* 5.

Or above two pence for regiſtring a Teſtimony of any Servant going from one place to another. 5 *El. c.* 4. *Lam.* 435.

Ordinary, or his Scribe, or Regiſter that hath taken more for the Probate of a Teſtament or Letters of Adminiſtration, than ſix pence for the Scribe for writing the Probate of the Teſtament that ſhall be brought written in Parchment, and ſix pence for the Adminiſtration where the goods be not above five pounds; if above five pounds not above forty pounds, then two ſhillings ſix pence for the Ordinary, and twelve pence for the Scribe; if above forty pounds, then two ſhillings ſix pence for the Ordinary, and two ſhillings ſix pence for the Scribe, or one penny for every ten lines ten inches in length, at the Scribes election; and the like for every copy of a Teſtament or inventory, or elſe

after

after the rate of the lines as before, loseth ten pounds and so much as is taken, to the party. 21 *H.* 8. *c.* 6. *Cro.* 61. 2. *nu.* 52. *Law.* 434.

Escheators Fees. *Vide* Escheators.

Receiver, Treasurer, or Minister of the King that taketh of any that hath fee or pension of the King, other fee than is given by ancient Laws and Statutes, *viz.* four pence for payment of every sum, forfeiteth six shillings eight pence. 33 *Hen.* 8. *cap.* 39. 7 *E.* 6. 1. *Cro.* 58. 2. *nu.* 9.

Taking above four pence for impounding one distress, loseth five pounds to the party grieved, besides such money as he shall take above the sum of four pence. 1 & 2 *P.* & *M.* c 12. *ib.*

A man attainted of Trespass, cometh in *gratis*, and findeth surety for his fine, he shall pay no Fees to the Sheriff, or Goaler. *Cro.* 176. 2. *nu.* 6. So of him that is indicted before a Justice of Peace, and is committed till he pay his Fine.

The Officer is to take nothing of him against whom process is granted to come before a Justice of Peace to find surety for the peace. *Cro.* 176. 2 *nu* 8.

Fees for a Justice of Peace are (*ut dicitur*) 9 *Cro.* 176. 2. *nu* 9.

For a recognizance for the peace, two shillings

For a recognisance to bail a prisoner, two shillings.

For a *supersedeas* of the Peace two shillings.

For a Warrant of the Peace under seal, two shillings.

For release of the peace, two shillings.

For a Warrrant which concerneth not the Peace, four pence.

For the recognisance of an Alehouse-keeper, twelve pence. *Cro.nu* 10. 5 *Ed.* 6. *c.* 25.

Fees of Wine-licensers are; for the license five shillings, for the acquittance four pence, for the bond six pence, upon pain of ten pounds. 12 *C.* 2. 25.

Vide plus. Dal. 78.

No

No Fee ſhall be paid for regiſtring Augmentation-Leaſes of a Biſhop, &c ſave only a reaſonable reward (not more than five ſhillings) to the Clark for entring. 29 *Car.* 2.

Felo de ſe.

A man that kills himſelf, either with a meditated hatred againſt his own life, or out of melancholy, or other humour, is *felo de ſe*, and forfeiteth his goods, real and perſonal chattels to the King; and debts due upon ſpecialty, and alſo upon ſimple contract, or without ſpecialty. *Co.* 4. 95. 2 *Dal.* 341.

So debts owing to him and another, the whole, unleſs in caſe of joint Merchants. 3 *Inſt.* 55.

Leaſe to him and his Wife for years. *Ib.*

Two fighting, the one of them falleth on the ground, and draweth his knife, the other falling upon him, doth alſo fall on the knife, and is ſlain, he is in a ſort *felo de ſe*. *Dal.* 342. *Cro.* 28. 2. *nu.* 7. *Pax reg.* 122. b. *Sta.* 16. 2.

If a Gun be diſcharged with murderous intent, the Piece breaks, and ſtrikes into his own eyes, whereof he dies; he is *felo de ſe*. *Brac.* 13. *c.* 1.

An Infant, or *Non compos mentis*, killing himſelf, doth not forfeit, but a Lunatick doth. *Dal. ibid. Lam.* 247. 3 *Inſt.* 55.

One intending to be *felo de ſe*, gives himſelf a wound, but dies not within a year and a day, is no *felo de ſe*. *Ib.*

All his goods ſhall be forfeited which he had at the time of the blow given, but not till his death be preſented, and found of record. *Dal. ib.*

He forfeits but his part of goods in poſſeſſion, of him and another. 3 *Inſt.* 55.

He forfeiteth no lands, nor is his blood corrupted. *Dal. ibid.*

The Inquiry of *Felo de se* belongs to the Coroner: And no Traverſe lies to the Enditement, *ſuper viſum corporis*: but if the Coroner cannot have ſight of his body, as becauſe caſt into the Sea, or ſecretly buried, the Juſtices of Peace may enquire thereof, and a Preſentment before them, intitleth the King to his goods. *Dal. ſib. Cro.* 5. 110. b. 3 *Inſt.* 55.

Felony

Is by Common-law, and Statute-law.

By the Common-Law, all kind of Homicide not warranted, and Poiſon (a ſort of Murder) Burglary, Theft, Burning of Houſes, Reſcous, and Eſcapes. *Dal.* 339.

Vide their ſeveral titles.

Felonies by Statute.

The Kings ſworn ſervant conſpiring to deſtroy the King or any Lord of the Realm, or any ſworn to the Kings Council, or the Steward, Treaſurer, or Controller of the Kings Houſhold. 3 *H.* 7. *c.* 14. *Dal.* 73. 378.

And theſe three laſt ſhall determine it. Clergy lies.

Poiſoning to death (in a year and day) Murder. 1 *Ed.* 6. *Vide* Poiſoning.

Hereſie.

The Arch biſhop with conſent of the Biſhop of the Dioceſs within his Province, or if the Biſhop do not his duty, may convict a Heretick. 23 *H.* 8. The Statute 25 *H.* 8. 2 *H.* 4. 5 *R.* 2. 1, 2 *P. M.* being repealed.

The Writ *de Hæretico comburendo* is taken away by 29 *Car.* 2. *Conjur.*

Conjuration.

Conjuration which is a conſulting with the Devil, invoked by the name of God, to do ſome act. 1 *Jac.* c. 12. *Vide* Witchcraft.

Witchcraft.

Witchcraft, which is conference with the Devil, &c *Vide* Witchcraft.

Sorcery.

Sorcery, which is uſing lots in inchantments of the Devil. *Vide* Witchcraft.

Eſcape.

Breaking of priſon by one being therein for Felony, or a priſoner for Felony. 1 *E.* 2. *de priſonam frangent. Dal. ib.*

And if he eſcape going to the Goal. *Crompt.* 49. b.

If under arreſt for felony or ſuſpicion, whether in the Goal, or out, it is breaking of priſon tho he be not indicted of felony. *Cro.* 38. 2. *nu.* 1. *P. R.* 147.

A ſtranger breaketh the priſon, or openeth the ſtocks, or makes reſcous of one impriſoned or arreſted for felony, who eſcapeth; it is felony in them both. *Dal.* 378. *Cro.* 38. 2. *nu.* 1.

Quære, if a ſtranger diſturb the arreſting of a felon. *Dal. ibid. Fitz. Juſt. P. fol.* 114. *Lam.* 229.

Reſcuing a priſoner going to execution is felony. *Dal. ibid.*

Goaler, Conſtable, or other, having a priſoner under arreſt for felony, voluntarily ſuffereth him to eſcape,

ſcape, it is felon only in him that ſuffereth the eſcape. *Dal.* 379, *Lam.* 229.

If the priſoner eſcape by negligence of his keeper; it is felony only in the priſoner. *Dal. ibid.*

Eſcape before arreſt is no felony, but the Officer may be indited, and fined. *Dal.* 379. *Lam.* 239. *Cro.* 39. a. *nu.* 5. *Vide* Eſcape.

Buggery.

Buggery with mankind or beaſt.

Burning.

Burning of houſes, or ſtacks of Corn. Tho but part be burnt. *Vide* Burning.

Combinations.

Congregations, and Confederacies held by Maſons. 3 *H.* 6. 1. *Vide* Maſons.

Tongues.

Cutting out of Tongues, or putting out of Eyes. 4 *H.* 4. 5.

So cutting or ſlitting the Noſe, or Lip. 22, 23 *Car.* 2.

Powdike.

Cutting Powdike, or Bank in Marſh-land. 2, & 3 *Phil.* & *M.*

Ordnance.

Ordnance.

Embezeling the Kings Ordnance, Armour, *&c.* to the value of twenty ſhillings, though at ſeveral times. 31 *El.* 4. *Dal.* 386.

So Clergy gone.

And ſo for Sails, Cordage, Naval Stores. *Ib.*

Record.

Embezelling of any Record, Writ, *&c.* 8 *H.* 6. *c.* 12. *Dal. ibid.*

Raiſing of a Record is finable at the Kings will, *&c.* 8 *R.* 2. *c.* 4. 8 *H.* 6. 12.

Theſe two belong not to Juſtices of the Peace. *Vide* Record.

Forgery.

Forging of Evidences, *&c.* the ſecond time. 5 *El. c.* 14. *Dal.* 387.

Goaler.

Goaler enforcing his priſoner to become an approver. 14 *Ed.* 3. 10. *Dal.* 387.

Hawks.

Hawks embezelled, and not brought to the Sheriff. *Dal.* 387. 34 *Ed.* 3. 22.

Hawks concealed, or ſtollen from the owner. *Dal.* 387. *Fide* Hawks.

Hunting.

Hunting Deer or Conies in the night, and upon examination concealing the offence, or disobeying the arrest for such offence. 1 *H.* 7. *Vide* Hunt.

Taking a tame Beast, or other thing in a Park by way of Robbery. 3 *Ed.* 1. 20. *Dal.* 388.

Marrying.

Marrying a second husband or wife, the first living. 1 *Jac. c.* 11.

Gold.

Multiplication of gold or silver. 5 *H.* 4. *Dal.* 388.

Plague.

Infected with the Plague, going into company contrary to command. 1 *Jac. c.* 31. *Vide* Plague.

Priest.

To receive, relieve, or maintain Popish Priests. &c. *Vide* Jesuits,

Recusants.

Recusants refusing to abjure, or return after departure. 35 *El* 1. *Dal.* 185. *Vide* Recusants.

Purveyor.

Purveyor taking for the Kings House any thing above twelve pence. 1. Without

1. Without warrant under the great ſeal. *Vide Dal.* 388.

2. Buying any thing in any other manner than is contained in their Warrant. *Ib.*

3. Taking any carriage in any other manner than is compriſed in their commiſſion. *Dalt.* 389.

4. Shall carry away any thing againſt the owners will, without paying or agreeing for the ſame. *Ib.*

5. Shall not make his proviſion and purveyance by the teſtimony and apprizement of the Conſtable, and four neighbours ſworn, if the purveyor and owner cannot agree, and ſhall not deliver Tallies, or Indentures ſealed with his ſeal touching the ſame. *Ib.*

6. Or ſhall take more victuals, or carriages than he ſhall deliver unto the Kings houſe. *Ib.*

7. Or take Sheep in wool betwixt Eaſter and Midſummer at ſmall prices; or more than be ſufficient for the Kings houſe, and carry them to his own, and ſhear them. *Ib.*

In every of theſe caſes it ſeemeth to be felony in ſuch purveyor, their deputy and ſervants. *Ib.*

A Caterer of any Subject, or Officer taking any thing againſt the owners conſent, and not paying preſently. 36. *E.* 3. *c.* 6. 7 *R.* 2. *c.* 8. 23 *H.* 6. *c.* 14. *Dal.* 289. *Cro.* 48. 2. *Vide* Purveyor.

Rogue.

Incorrigible Rogues baniſhed the Realm, and returning without licenſe. 39 *El. c.* 4. *Dal.* 390. *Vide* Rogues.

Gypſies.

Gypſies remaining in *England* or *Wales* one month: ſo a perſon (above fourteen) remaining in their company one month. 1, 2 *P.M. Vide* Egyptians. Clergy is taken away. 5 *El.*

Robbing.

Robbing houſe, barn or ſtable in the day, to the value of five ſhillings, though no body be within. 39 *El. c.* 15. No Clergy. *Dal.* 390.

Robbing any houſe by day or by night, any perſon being therein, and thereby put in fear. *Ibid.* Without Clergy. *Ib.*

Robbing any perſon in part of his dwelling, any of his houſhold being within. *Ibid.* Without Clergy.

To rob any Booth in Fair, or Market, any perſon thereto belonging being within ſleeping or waking. *Ib. ſans* Clergy. *Vide* Robbery.

Servant.

Servant (other than an apprentice) to whom money, goods, or chattels, *&c.* are delivered to keep by the Maſter or miſtreſs, to the value of forty ſhillings, going away therewith, or converting them to his own uſe, to the intent to ſell the ſame, or defraud his maſter or miſtreſs. 21 *H.* 8. *c.* 7. 5 *El. c.* 13. *Dal.* 390. *Vide* Labourer. Not inquirable by a Juſtice of Peace.

Soldiers.

Soldiers going out of the Realm to ſerve a foreign Prince, not having firſt taken the oath of allegeance. 3 *Jac. c.* 14. *Dal.* 390.

A Gentleman, or of higher degree, Captain, or other Officer in Camp, going to ſerve a Foreigner before he is bound with two ſureties to the King, not to be reconciled to the Pope, *&c.* nor to make nor conſent to any conſpiracy againſt the King. 3 *Jacob. cap.* 4. *Dal.* 390.

Soldiers

Soldiers having taken preſt-mony, not going with their Captain; or being in ſervice, departing without licenſe. 18 *H.* 6. *c.* 19. 6. *Cook.* 27. 7. *H.* 7. *c.* 2. 3 *H.* 8. *c.* 5. *Dal.* 390.

Mariners.

Mariners and Gunners taking preſt mony to ſerve the King, and departing without licenſe. 5 *Eliz. cap.* 5. *Dal.* 391.

Soldiers and Mariners.

Soldiers and Mariners which ſettle not themſelves to ſome good courſe of life, but wander idly. 39 *El. c.* 17. *Dal.* 391.

Soldiers and Mariners landing, and not having a Teſtimonial from ſome Juſtice of Peace near the landing. *Ib.*

2. Or exceeding the time limited willfully fourteen days. *Dal.* 391. *Vide* 43. *El. c.* 3. that they ſhall be puniſhed as Rogues.

3. Or forge, or have forged Teſtimonial, knowing it to be forged. 39 *El.* 4, 17. *Dal.* 391.

4. Or being retained in ſervice after arraignment, doth depart within the year without the Maſters licenſe. 39 *El. c.* 17. *Dal.* 391.

In all theſe former caſes, *vide* the Statute, 43 *El. c.* 3. That Soldiers and Mariners begging or counterfeiting a Certificate from their Captain, &c. ſhall be adjudged and puniſhed as Rogues. *Dal.* 391. *Vide* Rogues. *Vide* Soldiers.

Taking perſons, and carrying them out of *Cumberland*, *Northumberland*, *Weſtmerland*, &c. Felony. *Vide* 42, *El.* 13.

Tranſporting live Sheep, the ſecond offence is felony. 8 *El. c.* 30. *Dal.* 39. *Vide* Sheep.

Tranſportation

Tranſportation of Silver, and good Money, and importing ill money. 17 *Ed.* 3.

Tranſportation of the Staple Commodities; Wool, Wool-fells, Leather, Lead. 27 *Ed.* 3. 3. *Vide* Leather.

Tranſportation of Iron, Braſs, Copper, Latten, Bell mettal, Pan-mettal, Gun-mettal, or Srhoof-mettal; Tin and Lead only excepted. 28 *Ed.* 3. 33 *H.* 8. 2 *Ed.* 6.

Raviſhing a woman with force, though conſenting afterward. 13 *E.* 1. 3. *W.* 2. 18 *El. cap.* 6. *Dal.* 392.

All Abettors in rape are principals. *Dalt.* 392. *Crom.* 47. b.

To raviſh a harlot againſt her will, is rape. *Ibid. Vide* Rape.

Carrying away.

To take any maid, widow, or wife, having lands or goods; or being heir apparent to her anceſtor, againſt her will, unlawfully. *Dal.* 392.

And to receive any ſo taken, knowing thereof, or to procure and abet the ſame. 3 *H.* 7. *c.* 2. *Dal. Crom. ibid. Vide* Women.

Rape.

To abuſe a woman carnally under ten years of age. 18 *El. c.* 6. *Dal.* 393. *Vide* Rape.

Wife.

To take a mans wife with her husbands goods againſt her will, or her husbands. 13 *E.* 1. 34. *Weſt.* 2. *Stamf.* 94. *Dal.* 393. *Cro.* 35. 2. *nu.* 2. *Vide* women.

Church.

Feloniouſly to take goods out of any Church or Chappel. *Lam.* 420. *Vide* Sacrilege.

Baſt-

Baſtard.

A woman delivered of a Baſtard, doth by drowning, or ſecret burying thereof by her ſelf, or other, conceal the death thereof, ſo that it may not come to light: if it were dead born, or alive, it is murder in the Mother, except ſhe can prove by one witneſs that the child was born dead. 21 *Jac. c.* 27. *Dal.* 393. *Vide Baſtard.*

Fine.

To acknowledge any Fine, Recovery, Deed inrolled, Statute, Recogniſance, Bail, or Judgment in the name of another not privy to the ſame; is felony without Clergy. 21 *Jac. c.* 26, *Dal.* 386. *Vide* Name.

Felony done in one Kings days may be tryed in another Kings time. *Cro.* 37. 2. *nu.* 31. *Dal.* 401.

A felony is done in one County, and the felon flyeth into another, and is there taken, he is to be committed to the Goal of the County where he was taken, and be removed by writ to the goal of the County where the felony was done. *Dal.* 401.

For ſtealing goods in one County, and carrying them into another County, the felon may be indicted in either County. But for Robbery the Indictment muſt be in the County where the Robbery was. *Dal.* 401. *B. Cro.* 140. *indict.* 26.

One ſtealeth ſtollen goods, the owner may indict the firſt, or the ſecond. *Dal.* 403.

Any man may proſecute for ſtealing *bona ignoti. Dal.* 402.

If the owner will not charge the felon, any other (after proclamation made, *If any will inform for the King*) may ſafely inform, indict, and give evidence. *Dal.* 408. But a Juſtice of Peace hearing of any that can inform, may ſend for him, examine him, and bind him to give evidence. *Dal.* 402.

Cutting

Cutting out, or disabling the Tongue, putting o
an Eye, slitting the Nose, or cutting it off, or
Lip, or cuting off, or disabling any Limb; all this
malice prepense, or lying in wait, is felony by 22,
Car. 2.

Stealing Cloth off the Tenters in the night, Cler
taken away; or Transportation. 22 *Car.* 2.

Felony of his own goods. Vide *Theft.*

Vide, *where killing is no felony,* in Homicide.

Vide plus *in Justice of Peace, and* Dal. 75, 76, 77.

Ferrets. Vide *Hunting.*

Fewel.

One Justice of Peace may set on the Pillory, in th
next Market Town to the place of offence, any pers
convicted of breaking the Assise of Fewel, and not
ble to pay the forfeiture; there to be at eleven of th
clock on the Market day, with a Billet or faggot boun
to some part of his body. *Quære,* whether one Justic
may convict him alone. 7 *E.* 6. *cap.* 7. *Lam.* 196. *Vid*
Coals.

Fines.

Fine taketh his name of the Latine *finis,* for that i
maketh an end with the King for the imprisonment laid
upon the offender, for the offence committed against
him. *Lam,* 574.

It signifies *pretium* (for Alienation, Leases, Co-
py-holds, &c.) *panam* (in satisfaction of an offence;)
pacem; as that high assurance of Land, called a Fine.
8 *Co.* 59. b.

Upon

Upon paiment of the Fine, or upon pledges found by a Recogniſance to pay it, the offender ought to be delivered. *Lam. ibid.*

A Conſtable may impriſon, but not fine: a Court Leet may fine, not impriſon: a Court not of Record, only amerce, as Court Baron: (Courts at *Weſtminſter* may do all) of record, fine and impriſon. 11 *Co.* 43.

The aſſeſsment of a Fine belongeth to the Juſtices, before whom the conviction is lawfully had. *Lam.* 576. Muſt be truly entred, and ſent into the Exchequer.

Stander by when a man was ſlain, is to be impriſoned till he make his fine, becauſe he did not his beſt to attach the murderer: ſo of other felonies. *Lamb.* 132, 289.

Fine upon a forcible Entry or detainer upon offenders convicted of record by a Juſtice of Peace, and by him committed to the Goal, ſhall be aſſeſſed by the ſame Juſtice, and upon bonds with ſureties he may enlarge them (*Tamen quære*) and eſtreat it, and ſend it into the Exchequer: but it is beſt to leave the fine to the diſcretion of the Kings Bench, *Lam.* 158, 159. *Dal.* 182. *Vide plus* in forcible Entry.

Upon conviction for offences, where no fine certain is limited, no fine can be aſſeſſed till the offender be brought in by *Capias pro fine*, or otherwiſe, unleſs it be for Ale-houſes and High-ways. *Lam.* 573.

Where any Statute ſpeaketh of fine and ranſome, the ranſome ought to be at leaſt treble the fine. *Lam.* 575. The opinion of my Lord *Coke* is, that fine and ranſome are all one. *Vide* well diſcuſſed, *Coke inſtit.* 127. a.

Where the Statute maketh an offence finable in general terms, or at the Kings will, the Juſtices of Peace before whom the conviction is had, may aſſeſs the fine, which is fitteſt to be done in open Seſſions. *Lam.* 576.

Fines upon the Statute of Tiles, of Croſs bows, and of Ale-houſes, by expreſs words of the Statute may not be altered. *Lam.* 578.

Fines

Fines muſt be reaſonable and juſt, according to the quality of the offence. 34 *Ed.* 3. *c.* 1. *Lam.* 577. and determined by the Judges. 11 *Co.* 44. a.

After one is taken by a *Capias pro fine*, the Juſtices of Peace are to aſſeſs the fine by their diſcretion, and to deliver the party. *Lam.* 574.

The Juſtices themſelves (*vide* Juſtice of Peace) finable in ſome caſes; as Riot, not doing their duty, &c. *Dal.* 197.

Fine levied in anothers name without his privity; ſelony. *Vide* Name, Felony. *Vide* Forreſt, &c.

Fines of Rioters. Vide *Riots.*

Fines of Brewer, Baker, Tipler. Vide *Aſſiſe of Bread.*

Fiſh.

Stealers of Fiſh out of ponds, and cutters of ponds heads, are to be bound to the good behaviour, and three months impriſonment, and to the party grieved his treble damages. 5 *El.* 21. *Lam.* 446. See 3 *Jacob.* 13.

If any caſt Nets into waters, by which the fry of fiſh may be taken, or take Salmons betwixt the Nativity of B. *Mary* and S. *Martin*, or young Salmons betwixt the midſt of *April* and Midſummer, one Juſtice may puniſh them for the firſt offence, by burning their nets and engines; for the ſecond, by three months impriſonment; for the third, by one years impriſonment; and for any of them, by fine at the diſcretion of the Juſtice. 17 *R.* 2. *c.* 9. *Lam.* 190, 454, 576. *Vide* 22 *Car.* 2. Like penalty for any kind of fiſhing without licenſe.

Forfeitures upon the Statute, 3 *Jac. c.* 12. where any offence is committed, in deſtroying the ſpawn or brood of Sea-fiſh, may be levied by diſtreſs and ſale of the

offenders

offenders goods, by warrant from one Juſtice of Peace to the Conſtables or Church-wardens. 3 *Jac. cap.* 12. the forfeiture given is ten ſhillings, the one moiety to the Poor, &c. the other to the perſon that ſhall ſue for the ſame.

For fiſhing in *Cornwal* and *Devon* for Pilchards, &c. *Vide* 14 *Car.* 2. And for general fiſhing. 15 *Car.* 2. 14.

For Ling, Herring, Cod, or Pilchard, or Salmons, Eels, or Congers taken by Foreigners, Aliens, imported, uttered, &c. in *England*; the forfeiture thereof ſhall be to the poor, and any man that ſeiſeth. 18 *Car.* 2. 2.

None ſhall fiſh in the River *Severn* with any Net, Wear, Spear, or other Engine, whereby Salmon, Trout, Pike, or Barbel, under the length appointed by 1 *El.* ſhall be taken; nor fiſh with any Net for Salmon, Salmon-mart, Salmon peal, Pike, Carp, Trout, Barbel, Chub, or Groyling, the meaſure whereof ſhall be under two inches and a half ſquare, &c. (*Vide* Stat.) under five pounds forfeiture each time, and of the fiſh ſo taken, and of the Nets; and ſo five pounds a time for watering Hemp or Flax in the River: nor (by laying Nets, &c.) deſtroy the Spawn of Fiſh, under forfeiture of forty ſhillings, and the Nets. 30 *Car.* 2.

The Juſtices of Peace being by this Act Conſervators of the River *Severn*, ſhall iſſue out Warrants to the Under-conſervators, &c. (appointed likewiſe) to ſearch for Nets, and other *Engines*, and ſeiſe them that they may be deſtroyed. *Ib.*

Offenders ſhall be puniſhed by Information or Inditement before the Juſtices of Aſſiſe, *Niſi prius*, *Oyer* and *Terminer*, Goal delivery, or in the Cenral Seſſions; which Courts ſhall award execution for the forfeitures to the poor, and the Informer proſecuting by *Fieri fac.* or *Cap. ad Sat. Ib.*

Saving to the King and Lords of Leets, &c. their Right, and Juriſdiction. *Ib.*

Fiſhmongers

Fiſhmongers ſelling fiſh at unreaſonable rates, puniſhable by Inditement. 15 *Roll.* 11.

Fiſh-days.

He that ſhall by preaching, teaching, writing, or ſhall notifie upon open ſpeech, that the eating of fiſh, or forbearing of fleſh, upon any days now uſually obſerved for Fiſh-days, is for neceſſity of ſalvation of ſouls, or is the ſervice of God, otherwiſe than other publick Laws be, ſhall be puniſhed as ſpreaders of falſe news are, and ought, &c. 5 *El.* c. 5. 1 *Jac.* c. 29. *Lam.* 442.

Any, except aged, ſick, with child, or licenſed, eating fleſh in Lent, or on fiſh-days, loſeth twenty ſhillings, and one months impriſonment. 5 *Eliz.* *cap.* 5. 27 *Eliz. cap.* 11. *Lamb.* 458. 35 *Eliz. cap.* 7. 1 *Jac.* c. 29.

Taverners, Inn-keepers, common Tabling-houſe, Tipler, or Alehouſe-keeper, offending againſt the Statutes, 5 *El.* c. 5. & 1 *Jac.* c. 29. for killing, dreſſing, and eating of fleſh, is to loſe the fleſh, and the penalty of 5 *El.* c. 5. which is three pounds 1 *Jac.* 29. *Lam.* 458.

Forfeiture upon the Statute, 1 *Jac.* c. 29. for eating of fleſh, except ſuch as be taken by the Juſtice of Peace, Mayors, Bailiffs, Head-Officers, or Conſtables, are to be equally divided betwixt the King and the Informer. 1 *Jac.* c. 29. expired.

Licenſe granted to ſick perſons to eat fleſh on fiſh days, ſhall be no warrant for them to eat beef, mutton, veal, pork, or bacon. 1 *Jac.* c. 29. expired.

Butcher or other, though licenſed, killing in Lent to ſell any Ox, Beef, Hog, Calf, or Mutton, except three days next before Eaſter, or Oxen, or Beef for victualling of Ships; loſeth the meat, or value. 1 *Jac.* c. 29. expired.

Juſtice of Peace, or Head Officer of Corporations,

or

or Conſtables of Towns, may in Lent ſearch Victuallers houſes ſuſpected of dreſſing fleſh; and finding any fleſh, Beef, Hog, Calf, or Mutton, may ſeiſe on it, and give it to the poor. 1 *Jac. c.* 29. EXP.

Biſhop of the Dioceſs, Parſon, Vicar, or Curate of the Pariſh where one is ſick, may grant licenſe for eating of fleſh, which muſt be ſigned with the hand of the Biſhop, Parſon, &c, and endure no longer than the ſickneſs. 5 *El. c.* 5.

Any perſon granting licenſe without need, loſeth five marks, and the licenſe is void. *Ibid.*

Flax.

Forfeiture due to the Informer upon the ſtatute of flax and hemp to be levied by what Proceſs the Juſtice will. 24 *H.* 8. *c.* 4. *Lam.* 584. but 24 *H.* 8. *c.* 4. is repealed by 35 *El. c.* 7.

Fleſh. Vide *Fiſh-days.*

Foreign Power. Vide *Treaſon.*

Foreign Plea. Vide *Tryal.*

Force.

Every Treſpaſs in judgment of law is a force, and the action may be, *quare vi & armis. Dal.* 298. *Lam.* 141.

That which is properly force, is either *Manu forti*, or *Multitudine.*

Manu forti is violence offered to the perſon of another by deed, or word. *Dal.* 298.

By deed, as actual violence, or to be furniſhed with offenſive weapons not uſually born. *Ibid.*

Any thing which a man taketh in his hand to throw

it at another, may be ſaid to be Arms. *Crom.* 74. b. 1. *Inſt.*

Multitudine, where there be two or three in a company, or more. *Dal.* 299. *Vide* 1 *Inſt.* not reſtrain'd to a certain number.

What, to enter with force.

Forcible entry muſt be an actual entry. *Dalt.* 299, 300.

If one or more come weaponed, eſpecially with weapons unuſually worn, and violently enter into an houſe or Land. *Lam.* 142. *Dal.* 199.

Much more being entred, if he or they offer violence, or fear of harm to any in poſſeſſion, or drive any out of poſſeſſion. *Dal.* 299. *Lam* 142.

Many come to do a force, and one only uſeth force, all are guilty. *Dal.* 303. *Lam.* 143.

To enter peaceably, and forcibly to put out another. *Dal.* 299. *Lam. ibid.*

To enter peaceably, and after to offer violence, threatnings, or fear of harm to one in poſſeſſion, with intent to get him out, though he get him not out. *Dal. ibid. Lam. ibid.*

Entring peaceably, and ſaying they will hold although they die for it. *Lam.* 146. *Dal.* 299.

To enter peaceably with weapons (not uſually born by them) to open an houſe or grounds. *Dal.* 299.

The Maſter entring with more ſervants than uſual. *Ibidem.*

A Treſpaſs made *manu forti*, or *cum multitudine*, though it be but to cut, or take away another mans corn, graſs, or goods, or fell, or crop wood, or to do any other treſpaſs, though the party be not put out of poſſeſſion, yet it ſeemeth forcible entry puniſhable by the Statutes: but otherwiſe if the entry be peaceable, yet it is diſſeiſing with force. *Lam.* 143. *Dal.* 299.

To enter peaceably, and after entry, by force or violence

violence to cut corn, graſs, wood, &c. or carry away anothers goods, is force. *Dal.* 300. *Cro.* 70. a.

To diſtrain for rent due (or not due) with force, doth countervail a force. *Dal.* 300. *Lam.* 144. *Vide poſtea* Forcible Detainer.

Divers enter where the entry is not lawful, and all ſave one demean themſelves peaceably, and one only entreth with force, or after entry uſeth force; it is forcible entry in all. *Cro.* 22. a. *nu.* 15. 24. b. *nu.* 43-34 b. *nu.* 15. *Lam* 143. *Dal.* 303.

In all theſe Caſes of Treſpaſs only the Juſtice of Peace may (as it ſeemeth) remove the force, and upon view impriſon and fine. Dal. 300. 304. *and upon view the Juſtice may inſtantly commit the offender, and record the force, which is not traverſable.* Co. l. 8. f. 121.

Forcible entry by words.

To enter peaceably, and then to offer by threatning to kill the Diſſeiſee if he re enter. *Dal.* 200.

Not Force.

To enter by fair means, his entry being lawful, and perſwade them within to come out, and the door being open, or ſhut by the latch, to enter without multitude, or offenſive weapons, or other violence. *Dal.* 300.

One (having right to land) going in company arm'd over the land to the Church, or Market, &c. unleſs he declare that he enters claiming. *Dal.* 300.

To enter peaceably and quietly, getting other out, and quietly to hold it. *Ibid.*

To enter peaceably into an houſe, and finding armor or weapons, not to remove them. *Lam.* 145.

To take a man being out of his houſe, and impriſon him, and in the mean time to ſend another peaceably to enter, is no force. *Lam.* 146. *Dal.* 300.

He that only agreeth to a forcible entry made to his use, is only disseisor. *Dal.* 303.

No forcible entry without actual entry, by the words of the Statute, whosoever doth enter, &c. *Dal.* 300.

What, Forcible detainer.

Forcible detainer is of Lands and Tenements, not of the person. *Lam.* 146. *Dal.* 301.

If entry be peaceable, and the detainer forcible, it is punishable, except quiet possession had been had for three years. *Dal.* 303.

To deny a Justice of Peace to enter (upon supposal of a forcible detainer) is forcible detainer, tho it be but by one person, and no weapons shewed. *Dal.* 301. *P. R.* 41. *Lam.* 145. *Cro.* 70. b. *nu.* 40.

If the Justice enter, and find any armed, or any arms, or unusual weapons lying by them, or find more than the ordinary family. *Lam.* 145. *Dal.* 301.

To enter peaceably, and after to bring in more weapons, or use the weapons found in the house to defend his possession, or place some with weapons in a house adjoyning ready to assault the enterers. *Lam.* 145. *Dal.* 301.

The Disseisor forestalleth the way of the disseised with force, so that he dare not come near. *Dal.* 301. *Lam.* 145. *Cro.* 69. b. *nu.* 26.

To keep cattel by force, where he hath no common, the Justice may imprison and fine, but not make restitution. *Dal* 301. *Cro ib. P. R.* 39.

To detain a house mortgaged by force from the mortgager, is forcible detainer. *Dal.* 301.

Forcible

Forcible detainer by word.

To enter peaceably, and after to threaten to kill the disseised if he come again. *Dal.* 302. *Lam.* 146.

It seemeth to amount to a forcible detainer to threaten to maim, beat, or do bodily hurt to the disseised, if he come again. *Dal. ib.* for that death may ensue upon such beating or hurt.

Not forcible detainer.

One entreth peaceably into a house, and finding armor, or weapons, doth not remove them. *Lam.* 145.

Not by word.

To threaten to burn his house, or spoil his goods, to deny to open the doors, to deny to go out. *Dal.* 302.

Forcible detainer of Rent.

The Tenant resisteth so forcibly, that the owner cannot distrain for his Rent, nor use his common of pasture. *Dal.* 302. *Lam.* 146. *Crom.* 70. 2. *nu.* 27. P. R. 39.

The tenant forestalleth the way by force and arms, or threatneth him that hath the rent or common, that he dareth not distrain or use his common. *Dal.* 302.

The tenant maketh rescous of the distress with force and arms. *Ib. Cro.* 69. 2. *nu.* 26.

In these Cases of Rent, or Common, the Justice may remove the force, record it upon view, imprison and fine, but can award no Restitution. Dal. 302.

What persons may make a force.

One alone, if it be with offensive weapons, or turbulent behaviour, to the affray of others: *Lam.* 205. *Lam.* 143.

An infant of the age of eighteen. *Dalt.* 302. *Crom.* 69. a. and so he may though he be under eighteen. And he may be fined; but *quare*, if he may be imprisoned. *Dal.* 302, 303.

A feme coyert may by her own act make a forcible entry, or detainer, and she may be imprisoned and fined: but the fine cannot be levied on the husband. *Dal.* 303.

Consent.

If one command, or counsel others to a force, and be present, though he do nothing, he is a principal. *Dal.* 303. *Vide* 17. *Ass. P.* 14. But if absent, a Disseisor. *Dal.* 303.

Divers enter, one only committeth force, all are guilty. *Ibid. Cro.* 22. a. *nu.* 15. 24. b. *nu.* 43, 34. b. *nu.* 15. *Lam.* 143.

Who cannot be put out.

The King cannot be disseised; therefore an Indictment upon the Statute 8 *El.* 6. for the King is not good: neither can the Kings Farmer prefer a Bill of Indictment upon the said Statute, but must have an information in the Exchequer. *Dal.* 303 *Cro.* 69. a. *nu.* 13.

Where one may hold with force.

Where one hath peaceably entred, and after continued in quiet possession without interruption for three years together. *Lam.* 159. *Dal.* 309. and may hold against strangers

ſtrangers to maintain his poſſeſſion, and have his company in arms. *Dal. ibid. Cro.* 71. a. b. but he may not reſiſt the Juſtice of Peace, that cometh to view.

Upon Inditement of forcible holding, the plea of three years lawful poſſeſſion next before, avoideth impriſonment, fine, and reſtitution. *Dal.* 309.

But it holdeth not;

1. If the entry were forcible, tho the holding peaceable. *Ib.*

2. If the holding were forcible, tho the entry peaceable. *Ib.*

3. If a diſſeiſor have continued peaceably three years. *Quære*, if he ſhall be helped by 8 *H.* 6. or 31 *El. c.* 11. If a diſſeiſer have forcibly continued his poſſeſſion twenty years, he may be indicted upon 8 *H.* 6. and the Juſtice may make reſtitution. 14 *H.* 7. *c.* 28. *Lam.* 160. *Dal.* 310. *Cro.* 71. a. *nu.* 49.

4. If the poſſeſſion of three years have been interrupted. *Cro.* 71. a. *Lam* 162. *Dal.* 310.

A diſſeiſer quietly holdeth three years, and after the diſſeiſee entreth, or maketh claim, the diſſeiſee re-entring, cannot hold with force, for he is in upon a new diſſeiſing. *Dalt.* 310.

A lawful poſſeſſor after twenty years poſſeſſion is outed; he can neither re-enter, nor hold with force. *Ib.*

Force lawful.

Force uſed by the Kings Officers for the due execution or advancement of Juſtice, or of the Judgment of the Law. (*Dal.* 306.) As

1. To purſue, apprehend, and carry to priſon offenders in Treaſon, Felony, or other great crimes. *Dal.* 306, 307.

3. A Sheriff, or his Officers, to apprehend by virtue of the Kings Writ. *Dal.* 307.

1. A Juſtice removing unlawful entries, or holding of poſſeſſions, and repreſſing Rioters. *Dal.* 306.

4. Juſtice, Sheriff, Conſtables, or Coroners, may uſe force in apprehending or impriſoning ſuch as in their preſence attempt to diſturb or break the Peace. *Dalton*, 306.

5. It is lawful by force to break open doors, to arreſt offenders within, if the Officer cannot otherwiſe enter. *Dal.* 307.

Note, that the Officer is firſt to ſignifie the cauſe of his coming, before he attempt to break open the doors. Dalt. 307. As

Firſt, for Treaſon, Felony, or ſuſpicion of Felony. *Crom.* 170. b.

2. Where one hath dangerouſly wounded another. *Cro.* 131. a.

3. An affray being in the houſe. *Cro.* 146. b.

3. Upon a forcible entry, or detainer found by Inquiſition. *Dal.* 307.

5. Upon a *Capias ut legatum* in perſonal action, or *Capias pro fine* directed to the Sheriff. *Cro.* 170. b. *Dalton* 307.

6. Upon Warrant or Proceſs for attaching a Popiſh Recuſant excommunicate. 3 *Jac. c.* 4. *Dal.* 307.

7. Upon a Warrant for the Peace, or good behaviour. *Dalton* 307, 464. But *Crompton* 176. b. maketh a *Quære.*

8. Upon recovery in a real action, or *ejectione firmæ*; but not to execute the Kings Proceſs upon the body or goods of any perſon at the ſuit of any ſubject. *Dalton* 307.

9. In caſes where the King is party. *Ib.*

Forcible defence is lawful.

1. For every man to keep his houſe to himſelf, his family, and his goods, as his caſtle, as well for defence againſt injury, as for his repoſe. *Vide plus* in Houſes. *Dalton* 284. 308, 309, 358.

2 In

2. In defence of Husband, Wife, Father, Mother or Maſter. *Dal.* 284.

3. Father or mother in defence of the child within age. *Dal.* 284, 308.

4. In defence of my Goods, or Land. *Dal.* 285, 308, 309.

5. An heir, or feoffee may keep poſſeſſion by force, if they and their anceſtors or feoffors, or they whoſe eſtate they have, have been in peaceable poſſeſſion three years. *Dal.* 309.

In theſe caſes he that attempteth may be diſturbed; and if he attempt to aſſault, or lame me, I may beat him again, as well in defence of my perſon as poſſeſſions, but not kill him. *Dal.* 285. 308, 309.

If one will take my Goods, I muſt firſt lay my hands on him, and diſturb him; if he will not deſiſt, I may beat him. *Dal.* 285, 308.

What Juſtices of Peace are to do in Forcible Entry, or detainer.

Every Juſtice upon complaint or notice given, ought at the coſt of the party grieved to do execution, *viz.*

1. He muſt go to the place. *Dal.* 81. *Lam.* 147.

2. Take ſufficient power of the County, or of the Town, and the Sheriff alſo (if need be) as well to arreſt offenders; as alſo for removing of the force, and for conveying them to the Goal. *Dalton, ibid. Lam. ibid.*

Whoſoever of that County ſhall refuſe to give his attendance, and aſſiſt the Juſtice ſhall be impriſoned, and make fine. *Dal* 474. 15 *R.* 2. *c.* 2.

3. Arreſt and remove all offenders, and take their weapons, and prize them for the King. *Dal.* 81.

If the doors be ſhut, and entrance denied, he may break open the houſe. *Dal. ibid. quære.*

The Juſtice cannot arreſt or remove them, if he find no force, except by enquiry. *Ib.*

4. The

4. The Juſtice ought to make a record of the force, and either keep it by him, or indent it, and certifie one part either into the Kings Bench, or the Clark of the Peace, and keep the other. *Ibid.*

One Juſtice of Peace upon his own view of forcible detainer, may record the ſame by 15 *R.* 2. *c.* 2. *Cro.* 61. *b. nu.* 9. *Dalt.* 81, 82. 198.

The Juſtice, or Juſtices, recording a force upon his, or their view, may not put the party, put out, into poſſeſſion, but muſt firſt enquire by a Jury; and the force being found put the party outed into poſſeſſion. *Dal.* 81, 83.

The Record of the Juſtice is ſufficient conviction of the offender, and is not traverſable. *Dal.* 81. 8 *Co.* 121.

5. The Juſtice ought to commit immediately to the next Goal, thoſe which he finds continuing the force, until they pay their fine, *ibid.* and 115. or forfeit an hundred pounds. *Ibid.*

But ſuch force muſt be in the preſence, or view of the Juſtices. *Dal.* 81, 82.

6. The Juſtices, or ſome of them that ſee the force, are the proper Judges of that offence, and may aſſeſs the fine; but it muſt be upon every one ſeverally. *Dal.* 82, 201, 312. And is to be eſtreated into the Exchequer; upon which aſſeſſing and eſtreating, the party is to be delivered. *Dal.* 82, 260. *Lam.* 159.

And ſo upon payment of the fine to the Juſtice, or Recogniſance for payment. *Dal.* 82. *Vide Lam.* 159.

Quære, for the Sheriff is countable for all fines: and *Lambert* adviſeth to refer it over to the Kings Bench. *Lam.* 159. *Dal.* 82.

Or the Juſtice may record the force, commit the offenders, and certifie the Record to the Juſtice of Aſſize, or to the Seſſions, and there the offenders ſhall be fined. *Da.* 182.

But ought more properly to be aſſeſſed by them that record the force. *Dal.* 82. and to be of value.

Or

Or the Juſtice may certifie the record into the Kings Bench, refer the fine thither, *Dal.* 82. which *Lambert* thinkeſt the beſt courſe. *Lam.* 195.

The fines muſt be reaſonable, *ſecundum quantitatem & qualitatem delicti. Lam.* 577. *Dal.* 201.

7. The force ought to be inquired of in ſome good place or Town, near where the force was (*Dal.* 82.) and that within a month, if it be a Riot. *Dal.* 201. One Juſtice may enquire. *Dal.* 182.

Inquiry may be, tho the offenders be not preſent, or tho the Juſtice go not to ſee the place where the force is. *Dal.* 182. *Lam.* 152.

Without Inquiry there can be no reſtitution *Dal.* 83. *Cro.* 161. b. 164. a.

Upon Inquiry making, the Juſtice muſt direct his Precept to the Sheriff, to ſummon twenty four of forty ſhillings a year land *per annum. Dal.* 311. *vide* the form. *Cro.* 132. b. *Dal.* 400.

If the Sheriff do not duly execute the Juſtices Precept for the returning of a Jury, he forfeiteth ten pounds 8 *H.* 6. *c.* 9. *Dal.* 182.

Upon default, the Juſtice may award an *alias*, and *pluries infinite* till they come. *Dal.* 312.

The Sheriff, at the day of the ſecond Precept, muſt return forty ſhillings in iſſues upon every one; at the third Writ five pounds; and at every day after the double. 8 *H.* 6. *c.* 9. *Dal.* 312.

If any Juror have not forty ſhillings land, yet the Inditement is good for the King. *Quære*, if there ſhall be reſtitution. *Lam.* 252. *Dal.* 312.

Returning of ſmaller iſſues than the ſtatute, hindreth not the Inquiry. *Dal. ib. Lam. ib.*

8. Upon Inquiry the Juſtice may make reſtitution, wherein the Juſtice needs not examine the title. *Dal. ibid. Lam.* 156.

No reſtitution before inquiſition. *Ibid. Cro.* 161. b. 164. a. *Dal.* 83, 312.

In the Inditement, not only the entry, but alſo the putting

putting out muſt be, and *& adhuc extra tenent*, *Lam.* 153. for lack of theſe words no reſtitution can be made. *Dal.* 313. *Crom* 163. b. *Lam.* 153.

The Inditement muſt be good both in matter and form. *Dal.* 312. the words *manu forti*, or *cum multitudine*, are neceſſary. *Ibid.*

The Inditement muſt expreſs the quality of the thing, whether meſſuage, cottage, *&c. tenementum* may extend to either, and ſo incertain, *Dal.* 313.

If reſtitution be made by a Juſtice upon an inſufficient Inditement, the Kings Bench will reſtore the other. *Dal. ib. Cro.* 162. a.

If error be in the Inditement, any two of theſe Juſtices, which were at the taking of the Inditement, upon prayer of the party may grant a *Superſedeas* to ſtay reſtitution, if reſtitution be not made. *Dal* 313, 314. *Cro.* 165. a.

But no Juſtice, not preſent, can grant a *Superſedeas*. *Ibid.*

The Juſtice may make reſtitution, or give warrant to the Sheriff, or certifie into the Kings Bench, and leave the award of reſtitution to that Court. *Dal.* 803. *Lam.* 156.

None can grant reſtitution, but they before whom the force was found (*Dal.* 83, 314.) except the Kings Bench. *Dal.* 314.

None can perſonally reſtore the party, but he that took the Inquiry. *Dal. ibid.* And that by Precept to the Sheriff. *Lam.* 158.

After Inquiry, the Juſtice of Peace may break into the houſe by force, and put the ejected into poſſeſſion, *Dal.* 59.

If reſtitution be made without inquiry, it is puniſhable in *B. R.*

Reſtitution muſt only be made to him that was put out. *Dal.* 83, 215. *Lam.* 153.

Reſtitution is to be made only of houſes and land. *Dal.* 830. Not of rent, common, or advowſon. *Dal.* 83, 312.

Reſtitution

Reſtitution may be made, notwithſtanding a Traverſe. *Dal.* 83. But upon tender of Traverſe, the ſafeſt way for the Juſtice is to certifie the Preſentment into the Kings Bench. *Ibid.*

If the Juſtice upon complaint, or notice given of a force, do not remove the force, record it, and commit the offenders; it is puniſhable. *Dal.* in *B. R.*

The offenders being gone, the Juſtice may ſend his Warrant, and commit them till they find ſurety of their good behaviour. *Dal* 84.

If force be made by three, it is a riot. *Ib.*

Proceeding upon a Writ upon the Statute of Northampton. 2 Ed. 3. 3.

1. The Juſtice of Peace to whom this Writ is delivered, is but a miniſter therein, and coming to the place where the force is ſuppoſed, by the Writ he may cauſe three *Oy-es*, and then make proclamation for ſilence, *prout* *Dal.* 85 *Cro.* 72. a. b. *Lam.* 168.

2. Then he may read, or cauſe the Writ to be read, or declare the effect thereof.

3. Then let three *Oy-es* be made, and make proclamation again for ſilence, *prout* *Dal. ibid.* *Cro.* 72. a. *Lam.* 169.

4. Either enter and ſearch for armor, or inquire by Jury. *Dal. ib.* *Lam. ib.*

All that remain after proclamation, are to be impriſoned, and the armor apprized. *Ib.*

If upon proclamation they depart, they are not to be impriſoned. *Ib.*

Execution of the Statute of Northampton *without Writ.*

Every Juſtice of Peace may execute it *ex officio*, without Writ. *Dal.* 82 *Cro.* 72. a.

The

The difference in the manner of Execution is, that without Writ there needeth no proclamation nor Certificate into the Chancery, but the Juſtice may enter, ſearch, commit the offenders there found, apprize the armor, record all what he ſhall do, and thereof ſend an eſtreat into the Exchequer. *Dal.*86. *Crompt. ibid. L.*171. b.

The Juſtice cannot make reſtitution to the party outed, but only remove the force *Dal.ib. Lam.*172.

Cauſes to ſtay granting of reſtitution. Vide Dal.316. Vide *Reſtitution.*

Forfeitures of a Recognizance taken for the Peace.

Whatſoever is a breach of the Peace, the ſame is a Forfeiture of the Recognizance. *Dal.*181. As

1. To threaten a man to his face to beat or kill him. *Crompton* 136. b. *Lambert* 115. But not if he be abſent. *Dal.*281.

2. To ſtrike at, or offer to ſtrike at a man, tho he hit him not. *Dal.*282.

3. All Affrays, malicious and violent ſtriking, or other miſintreatings of the perſon of another. *Dalton* 282. *Lambert* 127.

4. To go with company, or weapons unuſual. *Dal.* 282. *Crompton* 137.a. *Lambert* 126.

5. To command, or procure another to break the peace, and if it be done in deed. *Lambert.* 115. *Dalton* 282. *Crompton* 137.a.

6. Impriſoning, or arreſting another without Warrant. *Lam.* 127. *Dal.*282.

To thruſt one into the water, whereby he is in danger of drowning: *ib.*

To raviſh a woman againſt her will. *ib.*

To

To commit Burglary, Robbery, Murder, Manſlaughter, or do any Treaſon againſt the perſon of the King. *Ibid.*

To be riotouſly aſſembled. *Dal. ibid.*

The act that breedeth the forfeiture of a Recognizance of the Peace, muſt be done to the perſon of another. *Ibid.*

Vide plus in Breach of the Peace, Fines, Recogniſance.

One committed for Pety Larceny, and convicted thereof, ſhall forfeit his goods. *Lamb.* 273 *Dal.*366. *Cro.* 36.b. *nu.*20.

Forfeitures upon Statutes. *Vide* Several Statutes. At Common Law, *vide Flo de ſe*, Deodands, Felony, Miſpriſion.

Forfeiture of Goods and Chattels lies in caſe of Manſlaughter *per infortunium*, and *ſe defendendo*, as at Common Law. *Dal.*352.

Fair, or Market, Court-Liberty, *&c.* forfeit by *non uſer*, where the ſubject has an intereſt: otherwiſe of Parks, *&c.* 2 *Cro.*155.

For miſuſer of Liberties. *Vide* Riot, Liberty, *&c.*

Forfeiture of Deodands, not till the matter found of Record. *Vide* Deodand.

Forgery.

Second Forgery of Deeds concerning anothers land after a former conviction; is Felony. 5 *Eliz.* 14. But not inquirable by Juſtices of Peace. *Dal.*387. *Cro.* 56. b. *Lam.*549.

Forrein Plea.

One indicted of Pety Treaſon, Murder, or other Felony

Felony, pleads a forrein Plea triable by Jury, it ſhall be tried before the Juſtices before whom he was indicted, and by the Jurors of the ſame County. 22 *H.* 8. c. 14. 32 *H.* 8. c. 3. *Lam.* 552.

Forreſt and Forreſter.

A Forreſt can be only in the Kings hands: but a Chaſe may be in a Subjects poſſeſſion; which the King may have by title from the Subject, and the name of Chaſe continues.

A Fine aſſeſſed at the Juſtices Seat in a Forreſt, begun within it, but adjourned to a place out of it, is good. 1 *Cro.* 409.

Forreſter, Warrener, or Parker, after Hue and Cry to yield, kill (in his Office) any making reſiſtance; it is juſtifiable. 21 *E.* 1. *de malefactoribus in Parcis. Lam.* 235. *Dal.* 359.

Killing a Hart proclaimed belongeth not to Juſtices of Peace to inquire of, but to the Juſtices of the Forreſt.

Foreſtalling, Foreſtallers.

Foreſtaller is he that buyeth or contracteth for any Victuals, or Wares before they come to the Market, Fair, or Port; or moveth the party to enhaunce the price, or not to bring them to the Market, Fair, or Port. *Lam.* 450.

Foreſtaller convicted before the Juſtices of Peace at the Quarter Seſſions by examination of two witneſſes, or preſentment for foreſtalling (within two years) for the offence ſhall for the firſt time,

1. Loſe the Goods, and be impriſoned two months without bail or mainprize.

2. For

2. For the ſecond, loſe double the Goods, and be impriſoned for ſix months.

3. For the third, loſe all his goods, ſtand in the pillory, and be impriſoned during the Kings pleaſure. 5 *E.6.c.*14. *Lam.*570. *Dal.*87.

The moiety of the forfeiture upon the Statute of Foreſtallers due unto the party, is to be levied by *Fieri facias* or *Capias*, to be awarded by the Juſtices of Peace. *Lam.*584.

A man buying Corn for Seed, not bringing ſo much to Market, forfeits the double value. 5 *Ed.6.* 14.

Traders in Butter and Cheeſe prohibited in open Seſſions from buying; if they do, are ſubject to the penalties in 3,4 *Ed.6.* 21. and 5,6 *Ed.6.* 14. Notwithſtanding they extend not to ſuch Traders, Freemen of *London*.

No Licenſe ſhall be, but in open Seſſions, for Drovers, Badgers, &c. *Vide* Badgers, &c. They muſt give bond not to foreſtal, &c. nor buy Corn out of Fair or Market, under five pounds pain, unleſs by ſpecial words in the Licenſe.

Oaken Bark forbid to be ingroſſed, upon forfeiture of it. 1 *Jac.* 21.

So of Hides coming to Market, nor buy except of the owner of the Beaſt, to be ſpent in his houſe; forfeiture of ſix ſhillings eight pence for every one.

Excepted out of 5 *Ed.6.* Barley or Oats to be made into Oat-meal.

So things belonging to the Trades of Fiſhmongers, Butchers, Poulterers, ſold again by retail at reaſonable prices.

So Corn, Cattle, &c. reſerved in a Leaſe taken.

So Wine, or Victuals by Inn-keepers, &c.

So dryed Fiſh: So Corn, Butter, &c. by licenſed Badgers, &c.

So proviſion for a City, &c. victualling for Ships, Caſtles, Forts.

So Fiſh bought by perſons dwelling within a mile of

the Sea. So Wines, Oils, &c. forreign Victuals (Fish and Salt excepted.)

Excepted out of 3, 4 *Ed.* 6. 21. 5 *Ed.* 6 14. Butter and Cheese bought by Freemen of *London*, and sold again in *London* Liberties, *Southwark* and *Westminster*.

For forestalling Hides: *Vide* Leather, &c.

Forestalling Corn: *Vide* Corn.

Fowlers, and Fowling.

Shooter, taker, or destroyer by Guns, Bows, Setting-dogs, Nets, or other Engines, of any Pheasant, Partridge, Pigeon, Heron, Mallard, Duck, Teal, Wigeon, Growse, Heathcock, Moorgame, or such Fowls, upon conviction by confession, or oath of two witnesses before two Justices of Peace, where the offence or apprehension is, to be imprisoned three months without bail, unless he pay to the Church-wardens of one of the places, to the use of the poor, twenty shillings for every Pheasant, and also for every egg of Pheasant, Partridge, or Swan taken or destroyed, or after one month of his commitment become bound with two sureties in recognizance of twenty pound, never to do the like, the same recognizance to be returned to the Quarter Sessions. 1 *Jac. cap.* 27. *Lam.* 334. *Dal.* 143. 7 *Jac. c.* 11.

Vide Partridges and Pheasants.

Games. *Vide* Unlawful Games.

Goal

Goal, Goaler.

A Goal is incident to every Court of Judicature. 3 *Cro.* 168.

Goaler or Sheriff may make a Goal of his own Houſe; ſo cannot a Conſtable, nor Juſtice of Peace. *Lam.* 133. *Dal.* 470.

A Conſtable muſt impriſon in the Stocks, and that but till he may provide convenient aid to convey him to the Goal *Lam.* 133.

Goaler ſuffers a Felon to go at large, and he eſcapes, it is felony in the Goaler, not in the Priſoner. *Lam.* 229. *Dal.* 379. *P. R.* 147, 149. *Dal.* 278. So in Treaſon, it is Treaſon, *&c.*

Goaler by hard and cruel cuſtody compels his priſoner to become an approver; it is felony. So of an Undergoaler. 14 *E.* 3. *cap.* 10. *Lam.* 231, 410. *Crom.* 49. 2. *Dal.* 387. As

Goaler killeth an unruly priſoner which doth aſſault him; it is no felony. *Lam.* 235.

Goaler by hard uſage killeth his priſoner; it is murder. *Lam.* 240. And the Coroner ſhall have the view. 3 *Inſt.* 91.

Goaler that taketh above four pence upon commitment of any priſoner arreſted or attached, forfeiteth to the party grieved, treble damages, and forty pounds, the one moyety to the King, the other to the party that will ſue for it. 23 *H.* 6. *c.* 10. *Lam.* 431.

Goaler or Sheriff refuſing to take a Felon delivered by Conſtables or Townſhip, or taking any thing for receiving is to be fined. 4 *Edw.* 3. *c.* 10. *Lam.* 434.

The Sheriff hath the keeping, and chargeable for a common Goal. 14 *Ed.* 3. 10. 4 *Co.* 34.

Six Juſtices may in ſundry Shires take order for the Common Goal, whereof the Sheriffs ſhall have the cuſtody, and to which Murderers and Felons, *&c.* ſhall be ſent, and may perform many incidents thereto by the Statute. 23 *Hen.* 8. *cap* 2. 13 *Eliz* 25. *Lamb.* 336. EXP.

Collectors for repairing of Goals ſhall account to the Juſtices of Peace, by 23 *H.*8.*c* 8.

Accountant for money levided for the Goal to build it, goeth into another County; the Juſtices of Peace where the Goal is, may ſend an attachment for him into another Shire. 23 *H.* 8.*c.*2. 25 *H.*8.*c.* 5. 55 *El. c.* 24. *Lamb.* 525. EXP.

Goaler ſuffereth a priſoner to go abroad out of his ſight, and he returneth not again; it is an eſcape; *Cro* 39.b.*nu.*5.

So if he marry a felon in his Goal. *Quære,* if felony. *Dal.* 379.

Goaler refuſeth to receive one arreſted for felony, the Town muſt keep him till the Goal-delivery. *Dal.*478. *Cro.* 172.2. But the Goaler denying to receive ſuch, ſhall be puniſhed by the Juſtices of Goal-delivery. *Ibidem.*

Goaler ſhall take no fees of any Servant, Carpenter, Maſon, nor other Labourer committed for refuſing to ſerve, on pain of ten pounds to the King, and a hundred ſhillings to the party. 34 *Ed.* 3. *cap.* 9. *Crom.* 185. a. b.

Vide plus in Rogues.

Glaſs-men.

Glaſs-men of honeſt life may travel without begging within the County, by licenſe of three Juſtices under their hands and ſeals, one being of the Quorum. 39 *El.c.*4. but by 1 *Jac.c.*7. they are made Rogues, and ſo to be puniſhed. *Goldſmith.*

Goldſmith.

Goldſmith, or Worker of Gold, muſt work as fine Silver or Gold in allay as the ſterling, and ſet his mark on it, or forfeit the double value. 2 *Hen.* 6. *cap.* 14. *Lam.*467.

None to gild any thing, or any mettal but ſilver, except ſpurs of Knights, and Apparel of Barons, or above, on pain of ten times the value, and a years impriſonment, 8 *H.*5.*c.*3. *Lam.*467.

Good Behaviour.

Good Behaviour may be granted upon diſcretion, and that by one Juſtice out of the Seſſions; yet better not to command it but upon ſpecial cauſe ſeen to themſelves, or upon ſuit of others, and thoſe very honeſt; and ſeldom for one cauſe alone, and not by one Juſtice only. *Lam.*120. *Dal.*291.

Good behaviour may be granted by ſpecial Writ out of the Chancery (*Supplicavit, cuſtodibus pacis & Vicecomiti, & eorum cuilibet*) upon the Statute. 34 *Ed.*3. 1. *Lam.*117. *Dal.*287,291.

The husband may ſwear for the wife, being bound to her good behaviour, in order to bind to the good behaviour him that procured her to be ſo bound. But otherwiſe in caſe of ſwearing the Peace.

Good behaviour againſt him that breaks a Park, or the like, for ſeven years, beſides other penalties, by 5 *El.*21. *Vide* Hunting.

Steward of the Sheriffs Turn, Leet, Pipowder, may commit for an affray in their view, bind to the good behaviour. *Lam.* 14.

One indited of Felony, as Buggery, and for want of ſtrong proof acquitted, tho the Judge had great preſumption that he was guilty, may be bound to his good behaviour. 1 *Cro.*292.

So in case of Inditement for a grand Riot. 1 *Crompt.* 507.

For what Causes grantable. Dalt. 292.

1. Against common Barretors, Quarrellers, and Disturbers of the Peace.
2. Rioters.
3. Lyers in wait to rob.
4. Generally feared or suspected to be Robbers by the High way.
5. Such as are likely to commit murder, homicide, or other Grievances to the Kings Subjects in their Bodies.
6. Such as shall practise to poison another.
7. Against all such as be of evil name or fame generally; but especially against such as are defamed in these particulars,
1. Those that haunt Bawdy-houses. *Vide* Bawdery.
2. Suspected to keep houses of common Bawdery: or have lewd women found in their houses. *Dalton* 292.
3. Common Whoremongers, and common Whores.
4. Night-walkers suspected to be Pilferers.
5. Eves-droppers that cast mens carts and gates into ponds, and such like misdemeanors in the night; such as live idly, yet fare well, and go well clad, having little to live on, except upon examination, they give good account of such their living.
Common haunters of Alehouses or Taverns, having small means to live on.
7. Drunkards twice convicted.
8. Messengers of Thieves.
9. Such as make false hue and cry.
10. Cheaters and Cozeners.
11. Libellers.

12. The

12. The reputative father of a Baſtard. So Mothers.

13. Unlawful Hunters in Parks, after examination taken.

14. Abuſing of Officers in executing their Office, as Juſtice of Peace, Conſtable, or other officer of the Peace; as a Juſtice ſeeth a man break the Peace; and doth charge him to keep the Peace; who anſwers, he will not.

Words of contempt againſt a Juſtice of Peace, tho he be not executing his office.

Vide Dal. 258. 1 2 *Roll.* 79.

A Conſtable was bound to his good behaviour for arreſting one in the Church-yard on a Sunday, after a *Certiorari* out of the Kings Bench ſhewn. 1 *Cro.* 603.

One was bound, *&c.* for calling the Mayor fool, tho not in publick place of Juſtice. 3 *Cro.* 78.

But ſaying to the Conſtable, Thou art a lying Raſcal, but not diſturbing him in his office, adjudged no breach of the good behaviour.

Saying to the Plaintiff in *Scire facias*, upon a Recognizance, *&c.* Thou art a quarrelſome fellow, and a ſcurvy knave, no breach.

So of a Merchant that he is a Bankrupt.

So of a Mayor playing at Tables, Thou art a fool. *Stamps* Caſe, *H.* 20. *Jac. B. R. Rolls. Rep. part* 2. 200, 272.

Treſpaſs done, and Indictment for it and conviction, *qd. v. &c.* no breach.

So ſaying of another, He is a Pelter, a Lyar, a Drunkard; not being menaced of Battery. Otherwiſe to ſay, I will meet with thee.

To be drunk is a breach of Good behaviour with penalty of ten pounds lies for the ſecond offence of Tipling. *Vide* Ale-houſes. 21 *Jac. c.* 7.

15. Abuſing a Juſtice of Peace his Warrant.

16. He that complains of Riot, or Force, and the Juſtices being aſſembled for Inquiry will not proſecute:

17. He that chargeth one with Felony before a Juſtice, and will not proſecute.

18. Abuſing of a *Superſedeas* of the Peace to a wrong end.

By divers Statutes.

1 Diſturbers of Preachers, 1 *El.c.*3.

2. Deſtroyers of Fiſh-ponds, or ſtealers of Fiſh, after lawful conviction. 5 *El.c.*21.

3. Takers of Hawks, or Hawks eggs out of other mens grounds after lawful conviction. 5 *El.c.*21.

4. Stealers, Hunters, or Killers of Deer, or Coy in Park, or Warren after lawful conviction. 3 *Fac.c.* 13. for ſeven years.

All theſe muſt be bound at the Seſſions.

5. Popiſh Recuſants muſt be bound in the King's Bench. 23 *El.c.*1.

6. One pardoned for felony, is to be bound before the Sheriff and Coroners. 10 *Ed.*3. *c.*3.

7. Diſturbers of the execution of the ſtatute for Rogues. 39 *El. c.*4.

8. Diſturbers of the execution of the Statute for the Poor. 39 *El.c.*4.

9. She that hath had twice a Baſtard. 7 *Jac. c.*4.

10. Infected with the Plague, or having their houſes infected, and are unruly. 7 *Jac. c.* 31.

Grey-hounds. Vide *Hunting.*

Guns

Gnns and Gunners.

Gunner departed from his Captain without licenſe, or wandring with a forged licenſe; it is felony. *Lam.* 427.

Every perſon may attach an offender againſt the Statute 33 *H.* 8. *c.* 6. and carry him to a Juſtice of Peace. *Dal.* 92.

And the Juſtice upon examination may ſend him to the goal, till the penalty be paid.

Particulars of the Statute 33 Hen. 8.

None under a hundred pounds *per annum* may ſhoot in, or keep a Gun, Dag, Piſtol, Croſs-bow or Stone-bow under ten pounds penalty. *Dal.* 92.

He muſt have forty pounds *per annum*, or two hundred pounds in goods, by 3 *Jac.* 13. *Dal.* 92.

None may have or or uſe any Gun under three quarters of a yard in length. Hand-gun a yard, *&c. Ib.*

One of a hundred pounds *per annum* may take ſuch Gun from the offender, or any Croſs-bow or Stone-bow, and may keep the Bow, but muſt break the Gun. *Ib.*

None may travel with a Gun charged, or Bow-bent, (but in time of ſervice, and to the Muſters) except he have a hundred pounds *per annum*. *Dal. Ib.*

None may ſhoot in a Gun near a Market Town, but in defence of his houſe or perſon, or at a But. *Dalton* 93.

The Maſter may not command his ſervant to ſhoot, except at a But, or in War. *Ib.*

1. Except Serving-men (whoſe maſters are enabled) at a But.

2. Inhabitants of Market Towns.

3. Perſons dwelling alone, or near the Sea, within five miles.

4. Gun-

4. Gun-makers.

5. Those that have Placards.

All persons which shoot in Guns (other than such as have a hundred pounds *per annum*) ought to present their names to the next Justice of Peace, and the Clark of the Peace should record it. *Dal.* 93. maketh *quare* if it be in use.

The Sheriff, or any of his Officers, may carry Guns, Dags, or other Weapons, offensive or defensive, for the execution of their office, notwithstanding the Statute 33 *H.* 8. *Coke* 72. *Dal.* 66.

Any two Justices may commit, for three months, such as shoot with Gun or Bow at any Partridge, Pheasant, House-dove, Mallard, or any Fowl; or at any Hare, unless he pay twenty shillings. 1 *Jacob. cap.* 27. *Dalton* 93.

Vide Hunting, Partridges.

Hares.

IF any have traced, killed, or destroyed any Hare in the snow, he loseth six shillings eight pence for each Hare. 14 *H.* 8. *c.* 10. *Lam.* 447. Or take with Hare Pipes, or other Engines. Or keep any Greyhound for Hare, &c. unless he have ten pounds *per annum* Inheritance, or thirty pounds *per annum* for life, or goods of two hundred pounds, or be the Son of a Knight, or Baron, or the Son and Heir of an Esquire, he forfeits twenty shillings for every Hare, forty shillings for the Greyhound.

Hart proclaimed. Vide *Deer.*

Harveſt-time.

Artificers and other perſons meet to labour, are compellable by one Juſtice of Peace or Conſtable, and the refuſer to labour in hay-time or harveſt, is to be put in the ſtocks two days and one night. *Lam.* 475. the Conſtable or other Head-Officer to do it upon pain of forty ſhillings. 5 *El. c.* 4.

Hawks and Hawking.

To ſteal, embezzle, or not bring to the Sheriff a Hawk that is loſt, is felony. 34 *Ed.* 3. 22.

Unlawful taker of Hawks eggs is to have three months impriſonment, there to remain till he find ſureties for the good behaviour for ſeven years. 5 *El.c.*21. *Lam.*446. *Vide* 3 *Fac.c.* 13.

Taking of Hawks eggs upon ones own grounds, or anothers, or any Eires, or driving them out of their covert, or bearing any hawk of the breed of *England*, called a Nyeſſe, Goſhawk, Taſſel, Lanner, Lanneret, to be impriſoned a year and a day, and loſe ten pounds and the Hawk. 11 *H.7.c.*17. *Lam.*446.

Every Juſtice of Peace may examine the offences for hawking or hunting with Spaniels in eared or codded Corn, and bind over the offender with ſureties to the next Seſſions. 23 *El.c.*10 *Dal.*140. *Lam.*447.

Againſt hawking at Pheſant, or Partridge, between the firſt of *July*, and laſt of *Auguſt*. *Vide* 7 *Fac.c.*11. and Partridges.

There muſt be a Licenſe for one to ſhoot for Hawks-meat. 1 *Fac.*27.

Vide plus in Larceny and Felony.

Harth money,

Harth-money, and Chimney-money.

Every Houſe, Edifice, Chamber, and Lodgi
ſhall be charged with two ſhillings yearly, to be p
at our *Lady-day* and *Michaelmas*, for every Fi
harth and Stove therein. 14 *Car.*2.*c.*10.

Every owner within ſix days after notice given by t
Officers, ſhall deliver in to them an account in writ
under their hand, of all their Harths and Stoves. *Ib.*

The Treaſurers and Officers of Inns of Courts a
Chancery, Colleges and Societies, and the Conſtabl
&c. ſhall every half year within ſix days after the d
grown due, collect the ſame, and give acquittance
which ſhall be a full diſcharge, and the party never
troubled in the Exchequer, or elſewhere. *Ib.*

Upon refuſal the Officers may levy the ſame by d
ſtreſs and ſale, rendring the over-plus after the d
and neceſſary charges deducted. *Ib.*

The Collectors ſhall within twenty days after it
due, pay it to the High-Conſtables, *&c.* deductin
two pence in the pound: the High Conſtables with
ten days to the Sheriff, deducting a penny in the pound
the Sheriff within thirty days into the Exchequer, wi
the return, deducting four pence out of twenty ſhi
lings, *viz.* three pence for himſelf, and a penny fo
the Clark of the Peace. *Ib.*

Where any encreaſe and decreaſe of them is, an a
count ſhall be taken, returned and enrolled, and
Duplicate ſent into the Exchequer, and where any d
ereaſe is, the party diſcharged without further pleadi
ing.

No perſon ſhall be preſented for his duty, unleſs ſuit
be brought within two years, to Judgment within four,
and levied within five. *Ib.*

Perſons by reaſon of poverty exempted from payment
to Church and Poor, ſhall not be charged.

This extends not to exempt any perſon inhabiting in a
houſe

houſe (not an Alms-houſe) having more than two Chimneys, *&c.* 16 *Car. c.* 9.

Houſes under twenty ſhillings *per annum* upon Certificate of the Church-wardens and Over-ſeers with the Miniſter to the two next Juſtices, diſcharged. 14 *Car.* 2. *cap.* 10.

This Statute extends not to a Blowing-houſe, or Stamp, Furnace, Kiln, or private Oven, nor to an Hoſpital or Alms houſe, whoſe Revenue exceeds not an hundred pounds *per annum*. *Ib.*

The Tenant, his Executors or Adminiſtrators charged, not the Landlord. *Ib.*

A new ſurvey by 15 *Car.* 2. *cap.* 13. after *Michaelmas* following, with ſeveral penalties upon houſholders, and Officers for neglect, or concealment.

So forfeiture of twenty ſhillings a week by every Officer neglecting his duty. *Ib.*

Where the Officer may enter, he may call two Inhabitants ſufficient, to his aſſiſtance. *Ib.*

Where a Sheriff is appointed Collector, he may make his Deputy under his hand and ſeal.

Officers in Societies may do ſuch things, and are liable to ſuch penalties as other Officers are. *Ib.*

The Bailiffs of *Weſtminſter* and *Southwark* may do the ſame things, and are liable to the ſame penalties as Sheriffs. *Ib.*

All Juſtices of Peace, Chief Magiſtrates, Conſtables and other Officers are to be aſſiſting to Collectors, appointed by advice of Treaſurer, Chancellor, *&c.* to collect the duty for viewing Harths and Stoves, and for examining the Rolls, Returns, Certificates, *&c.* 16 *Car.* 2. *c.* 3.

Upon non-payment within an hour after demand, the Officer may diſtrain, with the aſſiſtance of the Pariſh Officer in the day time, and levy duty, arrears and charges of diſtreſs; the charges not exceeding the moiety of ſuch duty and arrears, rendring the Overplus. *Ibidem.*

In case of violent oppression or injury done to the Collector (or Deputy) proved upon Oath before a Justice of Peace, or other Magistrate, the offender punished by imprisonment in the Common Goal for any time not exceeding a month.

Officers shall give security to the King, sworn before the Barons or Commissioners to execute according to Law; and take no fee but of the King, upon pain of being disabled, and rendring treble to the party grieved, *&c. Ib.*

If any using Harth, or Stove, leave the house, or place before the half years Feast, the next Tenant shall be chargeable for that half year. *Ib.*

If any fraudulently stop up, deface, cover, or conceal any Harth or Stove, upon proof by oath before one Justice of Peace, *&c.* (or confession or view) he shall forfeit the double of the duty. *Ib.*

If any let the Lands, Gardens, Orchards, or Outhouses, formerly belonging to a Dwelling-house (or Cottage) apart from it; or divide a house into several Dwellings; or let it to persons pretending through poverty to be exempted, they shall pay the duty as they ought to have done before. *Ib.*

Questions arising touching the levying of any money by the Act, shall be heard and determined by one or more Justices of Peace next, or chief Magistrate upon complaint. *Ib*

But Quæries too great for private determination, and so in Actions brought in the Kings Court found specially, are these.

1. Whether of new built houses, or other not formerly surveyed and returned, the duty may be demanded and levied before any survey and return made.

2. Whether new built houses standing empty, and untenanted, ought to answer the duty.

3. Whether the King for this duty may distrain upon any other estate of the party his debtor, as at Common Law.

4.

4. Whether the duty ſhall be paid for Smiths Forges.

2. To the ſecond, after full debate and argument it was reſolved by all the Judges in the affirmative.

4. To the fourth it was reſolved and adjudged that Smiths Forges ſhall be charged as well as other Chimneys.

Hay and Oats.

Inholder taking any thing for Litter, baking Horſe-bread, except in Town or Village, being a thorow-fair, and being no City, Town-corporate, or Market town, the ſame to be of aſſize and weight, after the price of corn and grain in the Market; or ſell horſe-bread, Hay, Oats, Beans, Peaſe, Provender, and all kind of Victuals, both for Man and Beaſt, for reaſonable gain; for the offence,

1. Fined.

2. Impriſoned for a month without bail.

3. Stand on the Pillory without redemption of money.

4. Fore-judged for keeping Inn again. 21 *Jacob. cap.* 11.

Hedge-breakers.

Breakers and cutters of hedges, pales, rails, or fence; cutters and carriers away of Corn growing; robbers of orchards or gardens; pullers up of fruit-trees, with intent to carry away; cutters or ſpoilers of woods, poles, or ſtanding trees, convicted before a Juſtice of that County where the offence ſhall be done, by confeſſion, or one witneſs upon oath, are to render ſuch damage as the Juſtice will limit; and if not able, to be whipped by the Conſtable, who for default in his office

office, is to be committed without bail, till he cause it to be done. 43 *Eliz. cap.* 7. *Lamb.* 302. *Dalt.* 243.

No Justice to proceed against such Trespasses for offences done to himself, without assistance of another Justice. *Ibid.*

The second offence is Whipping. 43 *Eliz. cap.* 7.

High-ways.

The High way is not only the common tract, *Via Regia*, where Carts, Carriages and People have gone, but if the way be foundrous, and unpassable, and there be an out-let into anothers soil sown with Corn, yet that is the Kings High-way for his Subjects more convenient passage. 1 *Roll.* 390.

Therefore where a way goes through a mans land, and the owner of the land fence it on both sides,, he by so doing hath made himself liable to repair the high-way, and keep it passable, for by inclosure he hath straitned the high way. *Ib.*

Distress for Rent and Service cannot legally be made in the high-way; it is against the Statute of *Marlbr.* 75. *Vide* 3 *Cro.* 710.

Where a Lord of a Mannor distrains in the high-way, the Tenant may have an action of Trespass, or make reicous. 17 *Ed.* 3. 1, *&c.* And no prescription against a Statute. 9 *H.* 6. 56, *&c.*

But otherwise it is in case of Toll, for that of necessity must be distrained for in *Regia Via*, and therefore the Statute extends not to it. 3 *Cro.* 710,

The high-way at the ends of a Bridge must be maintained by the repairer of the Bridge. *Vide plus* in Bridges.

One Justice may cause high-ways to Markets to be inlarged, and cleansed of bushes and Trees. 13 *E.* 1. *c.* 5. *Dal.* 98.

Every

Every Juſtice may preſent upon his own knowledge in open General Seſſions, any high-ways inſufficiently repaired; or any default againſt the Statute. 2 & 3 *P. & Mar. c.* 8. & 5 *El. c.* 13. and 34 *Ed.* 1. Stat. of *Winch.* for Articles of Inquiſition, &c. And ſuch Preſentment is as good as the Preſentment of twelve Men: and thereupon the Seſſions may aſſeſs the ſame; tho the preſented be abſent, ſaving to the offender his Traverſe. *Dalt.* 99 *Crompton* 125. b. 195. a. *nu.* 5.

Defaults contrary to theſe Statutes.

1. If the Conſtable and Church-wardens do not on Tueſday, or Wedneſday in Eaſter week, call together a number of Pariſhioners, and chuſe Surveyors for high-ways. *Dal* 99.

2. If ſix days be not by them then appointed for mending high-ways before Midſummer. *Ib.*

3 If notice be not given by them openly in the Church, the Sunday after Eaſter, of the ſaid ſix days. *Ib*

4. If he that hath a plow land in tillage, or paſture, or draught, do not for every draught or plow land ſend one cart with two able men, to work eight hours of every of the ſaid ſix days, twenty ſhillings *Ib.*

And every other Pariſhioner having five pounds in goods, forty ſhillings in lands in the ſubſidy, muſt find every day two able men, or loſe ten ſhillings, and every cottage one, or loſe twelve pence a day. *Dal.* 100.

But 18 *El.* 9. he that occupieth 2 plow-land in ſeveral Pariſhes, only where he dwelleth; and he which hath plow land in ſeveral Pariſhes, ſhall be charged in each Town. *Dal.* 100. *Cro.* 82. b.

In places where is no uſe of Carts and Teams, but they carry on horſeback, or other Carriages, ſuch perſons ſhall ſend them in with able perſons, to work according to the Statute. 22 *Car.* 2.

5. If the Carriages be not thought needful by the

ſurveyors, then two able men for every cart ſpared, upon pain to forfeit for every one not ſent twelve pence. 2 & 3 *Phil. & Mar. cap.* 8. *Crompt.* 82. b. *Dal* 100.

6. If Fences, Hedges and Ditches next adjoyning to the High ways be not kept low, ſcowred, and repaired.

7. If all trees and buſhes growing in the high-ways be not cut down by the owner of the Land, upon pain of ten ſhillings for every default. 5 *El. c.* 13. 18 *El. cap.* 9. *Dal.* 100.

Now, it ſeems, if according to the Statutes of *El.* the hedges be kept low, trees and buſhes cut down, ditches ſcoured and repaired, it ſuffices, tho the ways be not two hundred foot wide on both-ſides.

Generally he that hath the ſoil, or both ſides the high-way, ſhall have the trees growing on it. 1 *Roll.* 392. yet the Lord of a Rape having ſeveral Hundreds in it, may preſcribe to take the Trees in a high-way there. 11 *Jac. B. R.* Sir *Jo. Pelham.*

8. If any choſen to be ſurveyors refuſe the Office, or do not execute it, penalty twenty ſhillings. 2 & 3 *P. & M c.* 8. *Dal.* 101.

Every Surveyor within twenty days after his election noticed, ſhall upon penalty of five pounds view the common high-ways and bridges within his diviſion, and all water-courſes, cauſeys and pavements to be mended upon publick charge, and make tax for doing what the former Statutes do not extend to. 14 *Car.* 2 *c.* 6.

But this Act, as to power of taxing, was to continue three years: yet afterwards by the Statute 22 *Car.* 2. the Juſtices of Peace in their Seſſions being ſatisfied that the Statutes then in force provided not for the ſaid repairs, may make aſſeſſments: but that power is alſo expired, *Lady-day*, 1673. But in all elſe 22 *Car.* 2 is perpetual Surveyors choſen in *Chriſtmas* week according to 22 *Car.* 2. ſhall take the Office, and appoint ſix days for providing materials, and working in the high ways, with reſpect to the ſeaſon, and publick

notice

notice convenient: at which days all persons shall attend for work; and shall return the defaulters in a month to a Justice of Peace, who shall present it at the next Sessions, *&c.* 22 *Car.* 2.

Surveyors shall complain of a Day labourer's default, or of Carriages and Horses, who upon proof by one credible witness, shall levy of the goods of the party (without reasonable excuses) of a day-labourer the penalty of one shilling six pence; for every man and horse three shillings; for every cart and two men ten shillings.

Surveyors may, for the better amendment, *&c.* take and carry away (at discretion) the rubbish or smallest broken stones, ready digged by the owners of a Quarry.

So dig in the grounds near the way for gravel and sand; so as they dig not in gardens, or orchards, or meadow, and but one pit, not above ten yards over, and filled up in a month at the Parishes charge: so gather stones upon any mans ground for that use.

And if there be not sufficient materials in the Parish, they may by allowance of two Justices of Peace, take gravel, chalk, sand, cinder, or stones out of the wastes, or commons, of any neighbouring Parish, or on the Sea coast; so as they fill up the place within a month, if required. 14 *Car.* 2. *c.* 6.

And so for default of sufficient in the neighbouring commons or waste, take it in any mans grounds (not being house, orchard, garden, court yard, park with deer, or meadow) without paying, unless composition hath been formerly paid, filling up, *&c. Ib.*

Surveyors may by consent of two Justices of Peace under hand and seal, enlarge a way not eight yards in breadth, out of any mans land next, by consent, or Order upon an *Ad quod damnum* returned, *&c. Ib.*

Two Justices of Peace may convene before them the Bailif and High Constables, and take their accounts of estreats of Fines, *&c.* compelling them to pay such ar-

rears, as they ſhall think fit, to the Conſtables and Church-wardens of the Pariſh where the offence was committed.

So take ſuch account of the precedent Conſtables and Church-wardens, upon the preſent Church-wardens and Conſtables complaint, *&c.* by 2, 3 *P. M.* 8.

The offences againſt 18 *El.* 10. ſhall be heard and determined in open Seſſions by that Statute: ſo that it ſeems they can do nothing relating to that Statute, but in Seſſions.

All forfeitures ſhall be levied upon 18 *El.* by the Surveyors by diſtreſs and ſale, and the money imployed on the high-ways: who if they do not levy it within a year, the Conſtables and Church-wardens may levy it, and ſhall account 18 *El. c.* 10.

Two Juſtices of Peace may take account of the Surveyors, and of the Conſtables and Church-wardens, for all forfeitures levied by the Statute. 18 *El.*

All charitable gifts for making or repairing high-ways, pavements, and cauſeys; all iſſues for not appearing to Enditements or Informations for not repairing them, or removing nuſances; all Fines and Amercements therefore not otherwiſe diſpoſed of, ſhall be imployed on the high-ways, levied by the ſurveyors by warrant of two Juſtices by diſtreſs and ſale. 14 *Car.* 2.

And for theſe the ſurveyors ſhall within a month after his year account with the Inhabitants what he hath received, and how, and the arrears, and pay the overplus; and for default of it, two Juſtices near, upon complaint, may examine it, and commit the ſurveyor till he make true account, and payment. *Ib.*

Whether a man, who plowing but with one plow, and five or ſix horſes, and go with two Carts ſhall be charged with two Draughts or Carts, came in debate in *B. R. M* 27. *Car.* 2. in a like caſe upon order by Juſtices of Peace in *Middleſex*, for charging ſeveral Brewers and Brickmakers there, uſing ſeveral Draughts or Carts, to ſend ſo many as they kept for the high-

ways

ways; and the Order being removed into *B.* R. a *Procedendo* was awarded by *Hale*, Juſtice, and the whole Court. So many Draughts as they kept, ſo many muſt they ſend, for ſo the ſervice they do will anſwer the damage occaſioned by them. *Dal.* 105.

No travelling Waggon, Wain, Cart, or Carriage (other than thoſe employed for husbandry, ſhipping, building, ſtones, or the Kings Ammunition) ſhall go with above five horſes at length; or in pairs (if more) all but one horſe; under forty ſhillings penalty for each offence, divided between the Surveyors, the Over-ſeers for the poor, and the Diſcoverer; levied by a Juſtices Warrant by diſtreſs and ſale. 22 *Car.* 2.

Surveyors and Conſtables for neglect of executing theſe Acts, ſhall be fined by any Juſtice of the place, upon complaint and proof by one witneſs, or view, the Fine not exceeding forty ſhillings, levied by diſtreſs, *&c. Ib.*

So for reſiſting any imployed by virtue of the Acts, forty ſhillings, or commitment till paid. *Ib.*

Juſtices of Peace (*inter alia*) may hear and determine of charitable gifts for high-ways, *&c.* and make Orders for the employment of them according to the donors will (except ſuch gifts to Colleges, *&c.*) and offences in Surveyors, or others therein.

Upon ſuch Orders Appeal to Chancery lies, as to a decree of a charitable uſe. *Ib.*

The Truſtees ſhall let to farm at the beſt improved value, without Fines, Lands that are given for maintenance of high-ways, *&c.* and the Juſtices may inquire into their value at the Quarter Seſſions, and order the improvement, if neglected, except there be proper Viſitors. *Ib.*

Where the high-ways cannot be repaired before *Midſommer* day, they may before S. *Lukes* day yearly, without any penalty. *Ib.*

Defects of Repairs ſhall be preſented only in the proper County, out of which no ſuch Preſentment or

Inditement ſhall be removed by *Certiorari*, or otherwiſe, till Traverſe and Judgment. *Ib.*

A Bridge lying between two Counties, not being known in which part it lies, nor who ought to repair, Inditement ſeems to be removable by *Certiorari*, notwithſtanding this Statute; ſo where one having Lands in one County, ought to repair a Bridge or High way in another *ne deficeret juſtitia.*

Juſtices of Peace in their Seſſions have power to fine upon Inditement, offenders, for nuſances, incroachments and purpreſtures in High ways; as Gates, where not ancient; buildings, or incloſure; carrion laid in the way; over-flowed by ſtoppage of water in private grounds; digging of Pits; laying Logs. *Vide plus* in Nuſance.

The words [for hire] being in 14 *Car.* 2 for repairing and inlarging high-ways, are made void, and repealed by a Statute in 30 *Car* 2. ſo that the reſtraint of the number of Beaſts, and of the Weight in Waggons and Carts is intendible when the Goods the Waggoners, &c. carry, are their own, as well as what they carry for hire.

9. If the Surveyor do not within one month next after the offence committed, preſent it to the next Juſtice, he forfeits forty ſhillings. *5 Eliz. cap.* 13. *29 El. c.* 5.

10. If the Bailiff or Conſtable who receiveth the eſtreats do not levy the ſame, or make not a true account and payment of all ſums levied to the Conſtable and Churchwardens, or the Conſtables and Churchwardens have not employed them upon the high-ways. *Dal.* 102.

If the Surveyors do certifie the next Juſtice within a month, the Juſtice ought to certifie the Preſentment at the next Seſſions; penalty five pounds. *Dal.* 102.

If the Surveyors preſent not till after the month, and the Juſtices do certifie it at the next Seſſions, it is not good againſt the offenders. *Dal.* 102.

Two

Two Juſtices, one being of the Quorum, may call thoſe to whom the eſtreats are delivered, to their account, betwixt the firſt of *March*, and laſt of *April*, and compel them to pay all ſuch arrearages as they ſhall adjudge to the Conſtables and Church-wardens, or impriſon them till payment of ſuch arrearages be made, and call the Surveyors, and Conſtables, and Church-wardens to an account.

All Fines at the Seſſions for high-ways ſhall be levied by eſtreats indented, ſealed, and ſigned by the Clark of the Peace, and delivered by him within ſix weeks after *Michaelmas*. *Dal.* 71. as by the Statute is appointed. *Vide* Statute.

The Biſhop, Chancellor, and three Juſtices of Peace may examine the beſtowing of any mony appointed by any Statute for the amending High-ways or Bridges, and call to account the detainer thereof. 14 *El. c.* 5. 39 *El. c.* 18 *Lam.* 366.

Upon Indictment for repair of Bridges in High-ways, there ſhall be like proceſs as the Kings Bench uſeth, or ſuch as the Juſtices of Peace think meet. 22 *H.* 8. *c.* 5. *Lam.* 523.

High-ways leading from one Market Town to another, ſhall neither have dike, underwood, or buſh, whereby a man may lurk to do hurt, within two hundred foot of one ſide or other; if default be in the Lord, and any robbery be done therein, he muſt be anſwerable for it, and the Lord of a Park muſt ſet it two hundred foot on each ſide from the way, or a ſufficient wall, dike, hedge, or pale, that the offenders cannot paſs. *Dalton* 217.

Where a high-way lies out of a Pariſh or Hundred in a County, the County ought of right to repair it, and proceſs ſhall go againſt the whole County.

A Hamlet is not to bound of common right, (but by cuſtom may be) but a Vill or Town is. *Vide Dal.* 101.

For particular Places.

The King may nominate Commiſſioners beſides others appointed to ſurvey, order and manage the high-ways, ſtreets, alleys, and paſſages unto and from *London* and *Weſtminſter*, and the Suburbs and places within the weekly Bills of Mortality, by 13 *Car.* 2 *St.* 2. *c.* 2. Juſtices and Barons, and Juſtices of Peace comm.ff

Every Inhabitant in *London* and *Weſtminſter*, Suburbs, and *Southwark*, ſhall twice a week, on Wedneſday and Saturday ſweep before their houſes and buildings, and take up the dirt ready for the Scavenger, or other Officer; or forfeit three ſhillings for every offence. *Ib.*

Whoever throws, or permits to be thrown, aſhes, filth, or annoyance before his houſe, building, or wall, ſhall forfeit five ſhillings. So if before a Church, Church-yard, or publick building, or into any ſink, or way publick or private (but ſhall keep it in their houſes and yards, till the Officer comes to carry it away) five ſhillings. *Ib.*

Churchwardens, Houſekeepers of *Whitehall* or other the Kings houſes, or of Noblemen, ſhall be ſubject to the like penalty; ſo Uſhers of Courts, and Porters, and keepers of other publick buildings. *Ib.*

No Veſſels ſhall be hooped, waſhed or cleanſed in the ſtreets, no empty Coaches ſtand, nor Timber or Stones be wrought there, upon penalty of twenty ſhillings. *Ib.*

Scavengers and Officers ſhall come every day but Sundays and Holy-days, and give notice for the parties to bring out their duſt, *&c.* or forfeit forty ſhillings for every neglect.

Every houſholder ſhall pave and keep repaired the ſtreets

ſtreets before their houſes, and ground to the Channel, or forfeit for every Rod twenty ſhillings, and twenty ſhillings every week till it be ſufficiently repaired. *Ibidem.*

Where ſtreets, lanes, or alleys have been by cuſtom otherwiſe repaired, it ſhall be done by the perſons the cuſtom requires, under the ſaid penalties. *Ib.*

Every houſholder next the ſtreet ſhall from *Michaelmas* to our *Lady-day*, ſet out Lights in Lanthorns, or otherwiſe in ſome part of his houſe next the ſtreet, or forfeit one ſhilling, *Ib.*

One Juſtice of Peace, upon view, or confeſſion, or oath of one witneſs, may convict of theſe offences: and if upon view, the whole penalty goes to repairs; if upon proof, one moiety, or as the Juſtices pleaſe to the proſecutor, levied by warrant under ſeal to the Conſtable by diſtreſs and ſale, or commitment, till payment, *&c. Ib.*

In *London*, Scavengers and Officers ſhall be choſen, and rates made according to ancient cuſtom; ſo in *Weſtminſter. Ib.*

In other places (in the Act) within the Bills of Mortality, the Officers, *&c.* ſhall chuſe two Tradeſmen Scavengers, to take the office in ſeven days (allowed by two Juſtices) or pay twenty pounds, and ſo chuſe another with like fine upon refuſal, levied by diſtreſs and ſale, and commitment in default of diſtreſs or payment in ſix days of notice *Ib.*

In twenty days after election the Officers, *&c.* ſhall call ſuch as have born the like Office, and make a Tax by a pound rate, which confirmed by two Juſtices ſhall be paid quarterly upon demand of the Beadle, or Officer, and leavied (if refuſed) by diſtreſs, *&c. Ibid.*

The Lord Mayor and Aldermen, and Common Council of *London* have power to declare which ſhall be ſtreets, which lanes, and to ſtake them out, and the number and places for common Vaults, Drains and Sewers;

Sewers; and repairs of ſtreets ordered by them, or whom they appoint under the common ſeal, who ſhall tax for that purpoſe; and thereby the Commiſſioners power by the former Act taken away.

And the Lord Mayor, &c. have power to make Laws and Orders concerning the ſame, and the Offenders ſhall be proceeded againſt at the Seſſions, till they conform; and an appeal from a tax is to the Court of Aldermen, and final. 22, 23 *Car.* 2.

Certain ſtreets in *London* ordered and enlarged. 21 *Car.* 2.

For paving of *Aldgate*-ſtreet. *Vide* 13, 22 *El.*

For paving *Drury*-lane near *London*. *Vide* 3 *Jac.*

For carriage of Coal, Mine, or Iron in the Wilds of *Eſſex*, *Surrey*, or *Kent*, in thoſe High-ways. *Vide Dal.* 109.

So for laying out a High-way in *Kent* and *Suſſex*. *Ib.* 14 *H.* 8. *c.* 6.

Upon petition ordered, that the whole Pariſh (not the Hamlet) joyn in repairs of the High-way about *Mile-end green* and *Stratford*. Ordered 21 *Apr.* 7 *Car. Lib. Seſſ. Pacis*, *Midd.*

For repair of *Huntington* Lane near *Cheſter*. *Vide* 37 *H.* 8. *c.* 3.

For repair of the High-way near *Oxford*. *Vide* 18, 20, 25 *El.*

For repair of the High way between *Briſtol* and *Gloceſter*. *Vide* 1 *Ma.* 6.

For Doctor *Harveys* Cauſey near *Cambr.* *Vide Dal.* 101.

For repairing the High way at *Nonſuch*. *Vide* 3 *Jacob.*

And for the Northern High ways, *York*, *Lincoln*, &c. *Vide* 15 *Car.* 2. *cap.* 2. *Stat.* 3. And 16, 17 *Car.* 2. *cap.* 2.

Homicide.

Homicide.

Homicide is the killing of a man by a man. *Dalt.* 339, 349. *Ex vi termini* comprehends Treaſon, Murder, *&c.*

It is no difference whether the ſlain be alien, deniſon or Engliſhman, if he lives under the Kings protection. *Lam.* 237. *Crom.* 21. a. *nu.* 1. *Dal* 340.

To kill one attainted of Treaſon, or Felony, or outlawed for Felony, or attainted in Premunire, is felony, by 5 *Eliz. Dalt.* 342. *Crompt.* 24. a. *nu.* 39. *Stamford* 13.

Homicide is either killing himſelf, *Felo de ſe*, or another.

Felo de ſe forfeiteth to the King his goods and chattels real and perſonal, and his debts due by ſpecialty. *Dalton* 341. But no lands, nor blood corrupted. *Ibid.*

His Goods are not forfeited till his death. *Ib. Vide Felo de ſe.*

Infant, or *Non compos mentis* do not forfeit; but a Lunatick killing himſelf out of his Lunacy, doth forfeit his Goods. *Dal.* 340.

Homicide of another is either Voluntary: or Involuntary.

Voluntary is Murder. *Vide* Murder. Or Manſlaughter.

Manſlaughter is, when two men fight together upon the ſudden without malice precedent, and one of them doth kill the other. *Crom.* 26. a. *Lamb.* 248. *Dalt.* 349.

Manſlaughter is either by Chance-medley: or *Se defendendo*; his perſon; houſe and goods.

Manſlaughter by Chance-medley is felony, but may have his Clergy. *Dal.* 349.

One

One fighting breaks his weapon, a ſtander by lends him another, whereby the other is killed; it is Manſlaughter in the lender. *Dal.* 349. *Cromp.* 26. b. *nu.* 12. *Lam.* 252.

Two fighting on the ſudden, part and meet again, one killeth the other; it is a continued fray. *Dal.*350. *Lam.* 250. *Crompt.* 13. b. *nu.* 31. & 24. 2. *nu.* 36. & 26. 2. *nu.* 9.

The ſervant fighting in his Maſters defence, tho there were malice in the Maſter, not told to the ſervant *Lam* 248. So a ſtranger ſuddenly taking part, *Lamb.* 248. it is Chance-medley. *Dal.*346.

Two that were in malice are reconciled, fall out upon a new occaſion, and one is killed; it is Manſlaughter only. *Lam.*250. *Dal.*350.

Se defendendo, when one killeth another in the neceſſary defence of himſelf, or his, thereby to ſave himſelf, or his poſſeſſions, or goods, or ſome other perſons which he is bound to defend from peril; and it is either againſt a felon, as murderer, or thief, or a loyal ſubject. *Lamb.* 252. *Dal.* 356. *Vide plus in ſe defendendo.*

Againſt a loyal ſubject, if he be aſſaulted by another man, he muſt flie (ſo much as he may) till he be letted by ſome wall, ditch, hedge, preſs of people, or other Impediment, that his neceſſity of defence may ſeem inevitable, and he ſhall be committed till the time of his tryal, loſe his goods, and ſue out his pardon. *Lam.* 253. *Dal.* 357. It is not material tho he ſtrike again, if, before he give any deadly wound, he flie to the ſtrait. *Dal.* 357, 358.

A man flieth to a wall, and holding out his weapon, the other runneth upon it, and is ſlain, it is *ſe defendendo*, and forfeiteth his goods. *Dal.* 349. *Cro.* 28. 2. *nu.* 7. But if he had fallen on the ground, and drawn his knife, and the other fall on it, and killeth himſelf, he forfeiteth no goods, for he could not flie, and the ſlain is in a ſort *felo de ſe. ib. P. L.* 122. b. *Stam.* 16. 2.

Neither

Neither is it material, tho there were former malice, unleſs he lie in wait for the other, or agree for the place of fight, or ſtrike the firſt ſtroke. *Lamb.* 253 *Dalt.* 358.

Or aſſaulted in his own houſe upon a ſudden quarrel, and thereby killeth him. *Lam.* 254. But he forfeiteth his goods, and muſt have his pardon of courſe, except the aſſailant came with a felonious intent to kill, or rob him. 357 *Cro.* 28 2. *nu.* 6. *Lam.* 254.

A man falleth to the ground, there his flying to a ſtrait is not neceſſary. *Dal* 349,358

An officer or miniſter of juſtice, in executing his office, being aſſaulted, is not bound to flie. *Dal.* 358. *Coke* 9, 98.

A ſervant killing him, who robbed or killed his maſter, ſo it be done preſently, or in defence of his maſters perſon or goods, if he cannot otherwiſe be avoided. *Dal.* 358. *Cro.* 28. *nu.* 4.

Forreſter, Parker, or Warrener, or any in their company, killing an offender in a Forreſt, Park, or Warren, after hue and cry to keep the Peace, if they yield not themſelves, but flie, or defend themſelves by violence, is no felony. *Dal.* 359. *Quare*, if there be no malice in the keeper. *Cro.* 30. b.

In defence of my houſe and goods, it is juſtifiable by me, my ſervants or company, to kill one who attempteth felonioufly to murder or rob me in my dwelling-houſe, or in or near a high-way, horſe-way, or foot-way, or burglarily to break my houſe in the night. *Dal.* 356. *Crom.* 27. b. *nu.* 1. *Vide Lam.* 240. of one entring in the day by force, and killing in the dark.

To ſhoot at him that cometh to burn my houſe, is juſtifiable in me or my ſervants. *Dal.* 356. *Cro. ibid.*

In defence of the poſſeſſion of my goods, I may juſtifie, to beat him that wrongfully taketh them, but not kill him, except he be a thief. *Dal.* 358. *Vide* Aſſault.

To kill a true man in defence of houſe, land, or goods, is manſlaughter. *Dal.* 358. *Cro.* 27. b. *nu.* 4.

Involuntary

Involuntary homicide is either by Misadventure; or Necessity.

By misadventure is, when a man doing a lawful act without any evil intent, killeth a man; this is not felony of death, but he shall have his pardon of course for life and lands, but forfeiteth his goods. *Dalton* 351. *Lam.* 254.

A schoolmaster, father, mother, or master, correcting moderately his scholar, child, or servant; shooting at pricks, buts, or lawful mark; a workman casting tyle, timber, or stone from a house, or any thing from a cart, and giving warning; or doing other lawful thing, and giving warning. *Dal.* 351, 352.

Running at Tilt, or fighting at Barriers by the Kings command. *Dal.* 352.

The killing of a man in doing any unlawful act, without evil intent is felony; as shooting arrows, casting stones into high-ways, or other place, whither men usually resort. *Dal.* 352.

So killing a person unknown. *Dal.* 348.

Fighting at Barriers, or running at Tilt without the Kings Command. *Dal.* 352.

Quære, if playing at hand-sword, bucklers, foot-ball, wrestling, and such like, whereby a man is slain or receiveth hurt, and dieth within the year and day, be felony of death, or may have their pardon of course. *Quære similiter* of casting a stone at a bird or beast. *Ibid.*

A man may be slain by the fall of a house or tree, &c. and killed by a bull, bear, horse, dog, &c. or by some fall wherein he taketh, *Dal.* 251. if it be through the wilful default of another; it is felony.

The thing which causeth the death is a *Deodand*, and forfeited to the King. *Crom.* 31. 2. *Dal.* 353.

The forfeiture hath relation from the stroke given. *Dal.* 353.

Deodands are not forfeited till the matter is found in record. *Dal.* 353.

The

The Jury which finds the death of a man, muſt find and apprize the *Deodand*. It behoveth the Town to ſee it forth-coming; for the Sheriff ſhall be charged with the price, and ſhall levy the ſame on the Town. *Dalt.* 353. *Stam.* 21.

If the ſlain be under fourteen years of age, nothing is forfeited as a *Deodand*. *Dal.* 353. *Lam.* 21, &c. *vide Deodand.*

Homicide by neceſſity is either Commanded; or Tolerated.

Commanded.

An Officer doth execution after judgment, according to his warrant; it is not properly homicide, but juſtice. *Lam.* 234. *Dal.* 340.

If the officer doth not obſerve order of Law, it is felony in the officer. *Dal.* 340. *Lam* 240. *Stam.* 13.

If a ſtranger not lawfully deputed, put to death one condemned to die, it is felony. *Dal.* 340, 354. *Lamb. ib.* 5 *El.* 1.

It is not lawful for the Judge, who condemn'd him, to put him to death 344. 354.

Tolerated.

One warranted to arreſt one indicted of felony, upon reſiſtance killeth him. *Dal.* 355, 470. *Lamb.* 234.

Otherwiſe if the warrant be ill, as *I.S.* Knight being a Baronet, but never Knighted. So the arreſt tortious. *Cro* 372.

Every private perſon upon hue and cry to take a felon, if he reſiſt, and will not yield, may kill him. *Dal.* 355.

Conductors of a felon to the Goal, upon reſiſtance or flight may kill him. *Dal.* 355. *Lam.* 234.

A priſoner in the Goal attempteth to eſcape, and ſtriketh the Goaler, he killeth the priſoner, it is not felony. *Dal.* 355.

Rioters,

Rioters, forcible enterers or detainers, that ſhall reſiſt the Juſtice of Peace, or other the Kings Officers, and will not yield themſelves, being ſlain, it is no felony. *Cro.* 23. b. *nu.* 28. 30. b. 158. b. *Lam.* 235. *Dal.* 355.

If an officer by virtue of the Kings proceſs arreſting one for debt, or treſpaſs, is reſiſted, and killeth the reſiſter, it hath been taken to be no felony. *Dal.* 355. *Crom.* 24. a. 30. b. *Quere Cok. lib.* 4. *fol.* 40. 41.

To kill a true man in defence of houſe, lands, or goods is homicide by neceſſity. *Dal.* 357.

In all theſe former Caſes there muſt be inevitable neceſſity, that the offender could not be taken without killing. Dal. 358.

Homicide by a *Non compos mentis*, Ideot, Lunatick in his Lunacy, no felony.

But if one procure a mad man to kill another, it is felony in the procurer. *Ba.* 57.

A man deaf and dumb from his birth;

An Infant under years of diſcretion (as *Co.* & *Ba.*) or at the leaſt of very tender years, cannot be felons in Homicide. *Dal.* 351. 31 *H.* 7.

A drunken man the rather for his drink. *Co.*

Intent alone makes not felony; compulſion excuſes. As where ones arms are forced with his weapon to kill another. *Dal.* 348.

Horſes and Mares.

Any Juſtices may hear and take the claim of the owner of any horſe, &c. which was ſtollen within ſix months after the ſale thereof, the proof to be made by two witneſſes upon oath within forty days next enſuing the ſaid claim. *Dalton* 110. *Lambert* 203. 31 *Eliz. cap.* 12.

The Juſtice of Peace may miniſter an oath to the buyer

buyer what money he paid, *bona fide*, ſo as the right owner repaying his money, may have his horſe again. *Dal.* 110.

Owner, Officer, or Ruler of any Fair, is to appoint an open place for ſale of horſes, &c. and a ſufficient perſon to take toll, or loſe forty ſhillings for every fault, and anſwer the party grieved. 2 *et* 3 *P. et M. c.* 4. *Lam.* 471. *Dal.* 110.

The ſale of every horſe not being according to the ſtatute in every point, is void. *Dal.* 110. *Lam.* 472.

1. The horſe muſt be one hour at the leaſt in the place of the open fair. *Dal.* 110.

2. All the parties to the bargain being in the fair, muſt come with the horſe to the Book-keeper. *Ib.*

3. The Book-keeper muſt take perfect knowledge of the ſeller, and of the voucher, of the Chriſtian Name, Sirname, Myſtery, and place of Dwelling. *Ibid.*

4. The voucher muſt know the ſeller indeed, and declare to the Book-keeper the Chriſtian Name, Sirname, Myſtery, and Dwelling, as well of himſelf, as of the ſeller. *Ib.*

5. The Book-keeper muſt make a true and perfect entry of the ſellers name, and place of dwelling, &c. and of the true price; forfeiture, 31 *Eliz. cap.* 12. *Dal.* 110.

Every contract for a ſtollen horſe out of the fair is void, tho it be after booked. *Dal.* 211.

A ſale in open market ſhall not take away the owners property, the buyer knowing that it was anothers. *Ibid.*

All horſes, and all other goods, are to be ſold in ſuch a place or ſhop as is commonly uſed for the ſelling of goods of the ſame kind, to alter the property. *Ibid.*

A Thief ſelleth a ſtollen horſe by a falſe name, and it is ſo entred in the toll-book; ſuch miſnaming maketh the ſale void againſt the owner. *Dal.* 110, 111.

An Action lies not for warranting a horſe to have both his eyes, and he hath but one, becauſe it is in the buyers conuſance. 2 *Cro.* 387.

No Commoner in any Foreſt, Chaſe, Common, &c. *Northfolk*, *Suffolk*, *Cambridg.* &c. ſhall put to paſture there any ſtoned horſe above two years old, and under fifteen hands high, &c. upon pain of the horſes found there to be forfeit. 32 *H.* 8. 13. *Vide* the Statute for the meaſuring of the horſes, and driving the Commons, &c. under pain of forty ſhillings a time. And the Juſtices ſhall enquire, &c.

This Act is repealed as to the Mariſhes, Fen, &c. in *Ely*, *Cambr.* *Huntingd.* *North.* *Linc.* *Norf.* and *Suff.* by 8 *El.* 8. But none ſhall put into theſe grounds any ſtoned horſe as aforeſaid.

For tranſportation of horſes. *Vide* 1 *Ed.* 6. 5. and Tranſportation.

Vide plus in Main.

Horſe-bread.

Inholder in a Corporate or Market Town, where there is a common baker that hath been an apprentice therein ſeven years, may not make horſe-bread within his houſe. 32 *H.* 8. 41. 21 *Jac. c.* 21.

Inholder or Oſtler in a thorow-fare Town, being no City, Town corporate, or Market Town, being a Baker, and one that hath been an apprentice therein ſeven years, may make horſe-bread within his houſe. 21 *Jac. cap.* 21.

The horſe-bread muſt be ſufficient, lawful, and of due aſſize, according to the price of corn. 21 *Jac. cap.* 21.

Penalty

Penalty:

1. Fine.
2. Impriſoment for a month without bail.
3. Stand in the Pillory without redemption of Money.
4. Forejudged for keeping Inn again: 21 *Jacob. cap.* 21.

Vide Inn-holder.

Hoſpital.

The Biſhop and his Chancellor, with two Juſtices of Peace, next inhabiting, may charge the Collectors of a revenue of an Hoſpital, upon a pain, preſently to account, and to imploy the ſurpluſage to the uſe of the Hoſpital. *Lam.* 356. 14 *Elizab. cap.* 5. 39 *Elizab. cap.* 18.

Any man ſeiſed in fee may build an Hoſpital, or Houſe of Correction. 39 *El.* 5. Perpetuated by 21 *Jac.*

Hoſpitality. Vide *Religious Houſes.*

Houſe.

A ſmall houſe without land is a cottage; by 31 *El.* 1 *Inſt.* 56. b.

A Chamber in an Inn of Court is *Domus Manſionalis* as to Burglary.

A Houſe, or Meſſuage contains the Building, Curtelage, Orchard, and Garden. 1 *Inſt.* 56. b.

The houſe may be broke, or doors forced open by

the Sheriff, to give poſſeſſion after recovery in a real action, or *ejectione firmæ*. 5 *Co.* 91. b.

So to make execution of a ſtrangers goods, the door being ſhut againſt him making requeſt to enter. 5 *Co.* 93. a.

So for apprehending any Criminal, or Suſpect. 13 *Ed.* 4. 9. *Dal.* 307.

So upon an Affray, wounding, &c.

Forcible Entry, or detainer; apprehending a Recuſant; Warrant for the Peace, or Good Behaviour; where the King is party, upon a *Capias utlagatum*, &c. *Dal.* 307.

1, A mans houſe is his Caſtle for defence. *Dalton* 307.

2. It protecteth againſt any arreſt at the ſuit of any ſubject. *Ibid.*

3. In ſome caſes it is a privilege againſt the Kings Prerogative; for it hath been adjudged, that Salt-peter men may not dig in a Manſion-houſe without the owners conſent. *Ib.* 11 *Coke* 82.

Thieves, or Murderers attempting to rob, or murder a man in his houſe; he may aſſemble company, and kill any of them, and forfeiteth nothing. *Ibid.*

He may beat him that will enter upon his poſſeſſion, but may not kill him. *Quære* if he may hire ſtrangers to aid him, or put his ordinary company in arms. *Dal.* 308.

Vide plus in Homicide.

House of Correction,

With implements, and backſides, fitting for ſetting on work idle perſons, to be erected and provided in a convenient place in every County before *Michaelmas*, 1611. the ſame to be conveyed over to ſuch as by the

greatest part of the Justices at the Quarter Sessions shall be chosen, to be imployed for setting on work *idle and disorderly persons*, on pain of five pounds for every Justice of Peace, the one moiety to the Informer, the other towards the erecting of the house. 7 *Jac. c.* 4. *Dal.* 113.

So the Justices of Peace in Corporate Towns to do the like, and the others of the County not to intermeddle. 39 *El.* 4. continued by 3 *Car.* 1.

Master of the said house to be appointed by most of the Justices at the Quarter Sessions, next after providing of the said house, who is to set on work, and moderately to correct by whipping or fettering, such persons as shall be sent to him. 7 *Jac. c.* 4. *Dal.* 113.

Master of the House of Correction giving sufficient security for performance and continuance of his service, is to have yearly such money as by most of the Justices at the Quarter Sessions shall be thought meet, to be paid quarterly by the Treasurer, or else the Master to levy it in such sort as the Treasurer may. 7 *Jac. c.* 4. *Dal.* 113.

Constables shall appear before the Justices of Peace twice in the year, and give account upon oath in writing, under the hand of the Minister, what Rogues have been apprehended, and howm any punished. 7 *Jac. c.* 4.

Constables not safely conveying to the House of Correction such as by the Justices of Peace at their meeting, for the execution of the Statute, 7 *Jac. c.* 4. shall be sent thither, to pay such fine under forty shillings, as by most of the Justices shall be assessed. 7 *Jac. c.* 4.

A woman having a Bastard which may be chargeable to the Parish, for the first offence to be sent to the house of Correction one year; for the second offence, to be sent to the house of Correction, and to remain there (as aforesaid) till she find sureties for the good behaviour, and not to offend so again. 7 *Jac. c.* 4. *Dal.* 113.

Any able to work, and threatning to run away, and leave their Families upon the Parish, upon oath of

two witneſſes before two Juſtices of the ſaid diviſion, to put in ſureties for diſcharge of the Pariſh, or to be ſent to the houſe of Correction. 7 *Jac. c.* 4. *Dal.* 146, 150, 157, 208.

Not returning to the County, from which he went for work, ſhall be ſent to the Houſe of Correction. *Dal.* 160.

Maſter of the Houſe of Correction quarterly at the Seſſions muſt yield account of ſuch as have been committed, or is to be fined by moſt of the Juſtices. 7 *Jac. cap.* 4.

If any committed become troubleſome to the Country by going abroad, or eſcape without lawful delivery, the Maſter is to be fined by moſt of the Juſtices at the Quarter Seſſions. 7 *Jac. c.* 4.

All penalties not limited by the Statute of 4 *Jac.* 4. ſhall be paid to the Treaſurer, and accounted by him. 7 *Jac. c.* 4.

Unlicenſed Ale houſe-keepers to be ſent to the Houſe of Correction for the ſecond offence. 3 *Car.* 3.

Vide plus Ale-houſes, Poor People, Rogues.

Hue and Cry.

For the apprehending of Homicides, Burglars, Robbers, and other Felons, hue and cry ſhall be made, and every man ſhall follow the hue and cry; and he that doth not, ſhall be attached to appear before the Juſtices of Goal-delivery. It ſeemeth any Juſtice of Peace may bind him over by the Commiſſion. *Dal.* 402. *Cro.* 179. b.

Hue and Cry ought to be made from Town to Town, from Country to Country, by horſe-men and foot-men. 13 *Ed.* 1. *c.* 12. 27 *El. c.* 13. *Dalt.* 114, 402. *Cro.* 178. b. 179. a. b. Otherwiſe it is no lawful purſuit, to arraign a Felon.

Upon

Upon committing of any Robbery or Felony, the Officer of the Town where it was done, ought to ſend hue and cry to every Town round about him. *Dalt.* 154. *Cro.* 178. b. *nu.* 2.

Every Juſtice of Peace may cauſe hue and cry, freſh ſuit, and ſearch to be made upon any Murder, Robbery, Theft, or other Felony committed, by force of the firſt *Aſſignavimus*. *Dalt.* 114. *Lam.* 185.

By a falſe hue and cry, to enter into any houſe with the Conſtable, to bind and rob the Conſtable and Maſter of the houſe in the nighe, is Burglary. *Dal.* 360. *Cro.* 32. b. *nu.* 24. *Lam.* 263.

A woman raviſhed ought preſently to levy open Hue and Cry, or complain to ſome credible perſons. *Glanvil.* 115. *Dal.* 392.

Vide plus in Robbery.

The Inhabitants of any Hundred (either within the County wherein the Robbery was done; or in any other County, wherein default ſhall be of freſh ſuit after hue and cry made) ſhall ſatisfie the moiety of ſuch money as ſhall be recovered againſt the Hundred where the Robbery was done. *Dal.* 216.

In levying hue and cry, it is neceſſary to give notice of the thing ſtoln, as horſe, *&c.* of the colour and ſpecial marks; ſo of the Thieves perſon, apparel, &c. to ſearch ſuſpected places, and to take ſuſpicious perſons, and bring them before a Juſtice of Peace to be examined. *Crom.* 178. b. *Dal.* 114.

If any raiſe hue and cry without cauſe, he ſhall be ſtached for diſturbing the Peace. *Crompt.* 179. a. *Dal.* 403.

Hundred.

A place called a Half-hundred may have a Hundred Court. *Hob.* 246.

A Ward in *London* is as a Hundred in a County. 9 *Co.*

Hundred with the Liberties therein to be equally taxed by two Juſtices of Peace, one to be of the *Quorum*, in or near the Hundred, for relief of thoſe that are robbed. 27 *El. c.* 13. *Dal.* 216.

A Hundred may inquire of things omitted in a Leet. 2 *Cro.* 551.

The robbed ſhall not have his action upon the Statute of 27 *El. c.* 13. except he firſt with all ſpeed convenient give notice of the robbery to ſome inhabitant near the place where he was robbed; tho out of the Hundred, and *prope diviſis* is good. 1 *Crom.* 42. *Dalt.* 215.

2. Commence his ſuit within a year next after ſuch robbery committed.

3. Be examined upon his oath within twenty days next before ſuch actions brought by one Juſtice where the Robbery was committed, dwelling near to the Hundred, if he knew the robbers or any of them. *Dal.* 215.

If he knew any of the Robbers before ſuch action, he ſhall be bound before the ſaid Juſtice to proſecute the offenders effectually by Indictment, or otherwiſe by courſe of Law. *Dal.* 215.

The Hundred muſt anſwer the loſs, if the Robbers be nor taken within forty days. *Dal.* 235, 299. *Crom.* 179. a.

The Hundred ſhall be charged, tho the Robbery was done on a Sunday. 2 *Cro.* 497.

Vide plus in Robbery

A man

A man is ſlain in the day time out of a Town, and the Murderer doth eſcape, the Hundred ſhall be charged therewith. *Dal.* 403.

Jury of one Hundred may preſent an offence done in another Hundred. *Lam.* 399.

Robbery in a houſe doth not charge the hundred, tho it be in the day time. *Dal.* 216.

Robbery in the night doth not charge the hundred, yet if it be by day-light, tho before ſun-riſing, or after ſun-ſetting, the hundred ſhall anſwer it. *Dal.* 216. *Cokel.* 7. *fol.* 6.

But Robbery on a Sunday charges the hundred. 2 *Cro.* 497.

If upon purſuit the offenders, or any of them be taken, the hundred ſhall not be charged. *Dal.* 216.

If the party robbed take any of the Thieves after hue and cry made, it excuſeth the hundred. *Dal.* 216. *Cro.* 179. b. *nu.* 2.

He which is robbed ſhall not have his action where one of the Felons is taken; but if there be no hue and cry, the Village ſhall be amerced, tho one of the Felons be taken. *Cro.* 179. b.

Vide plus in Hue and Cry, Robbery.

Hunting.

One Juſtice of Peace, upon information of any unlawful hunting of Deer or Conies by nights, or with painted faces, or other diſguiſing in Foreſt, Park, or Warren, may make warrant to the Sheriff, Conſtable, Bayliff, or other Officer, to take the party ſuſpected, and to bring him before him, or ſome other Juſtice, to examine him thereof; and if he conceal the hunting, or any offender with him therein, the concealment is felony in the concealer, but the truth confeſſed is but

fineable at the next Quarter Seſſions. 1 *H.* 7. *c.* 7. *Lam.* 191. *Dal.* 114.

To diſobey ſuch a warrant, or make reſcous thereupon, ſo that execution of that warrant be not had, is felony. 1 *Hen.* 7 *c.* 7. *Dal.* 115.

The Juſtice of Peace that taketh examination of the offender for unlawful hunting in Parks. *&c.* may after the examination bind the offender to his good behaviour, to the end he be forth-coming; till the offence and the offender be lawfully examined. *Dalton* 116.

Unlawful hunting by three or more will prove a Riot. *Dal.* 116.

For killing a hare in the ſnow, forfeiture of ſix ſhillings eight pence. 14 *H* 8. 10. *Vide* Hares.

Any by night or day wrongfully entring into any incloſed ground, kept for keeping of Deer or Conies, and there chaſing or killing of them, upon conviction to be impriſoned three months without bail, and there to continue till he pay treble damages and coſts to be aſſeſſed by the Juſtices before whom he is convicted; or pay to the party grieved ten pounds for a Deer at the election of the party grieved. 7 *Jac. c.* 13. and find ſureties for his good behaviour for ſeven years. 3 *Jac. c.* 13. 7 *Jac. c.* 13. *Lam* 449. *Dal.* 115.

The party grieved, or the Juſtices of Peace, upon ſatisfaction of the party grieved, and confeſſion of his offence, and that he is ſorry for the ſame, in open Seſſions may releaſe the offender of his bond for the good behaviour. 3 *Jac. c.* 13. *Dal.* 115, 116.

The Statute 3 *Jac. c.* 13. doth not puniſh offenders in parks or incloſed grounds made after the Statute, without the Kings licenſe. 3 *Jacob. cap.* 13. *Dalton* 115.

Inquiring, hearing, and determining of offences againſt the Statute 3 *Jac. c.* 13. may be made by the Juſtices of Peace and Goal-delivery at the Seſſions, and they may award proceſs upon Indictments, Informations,

nations, Bills of complaint, or other actions wherein no eſſoin, &c. 3 *Jac. c.* 13. So of offences againſt 5 *El.* of Hunting, &c. *Dal.* 115.

Any not having lands of inheritance in his own or wives right of the clear yearly value of ten pounds, or for term of life thirty pounds *per annum*, or goods to his own uſe worth two hundred pounds, keeping Greyhound to courſe Deer or Hare, except the Son of a Knight or Baron of Parliament, or Son and Heir of an Eſquire, upon conviction by confeſſion, or oath of two witneſſes before two Juſtices of Peace, where the offence is committed, the party apprehended to be impriſoned three months without bail, except he preſently pay to the Churchwardens where the offence was committed, or party apprehended, forty ſhillings to the uſe of the poor of the ſaid Pariſh. 1 *Jacob. cap.* 27. *Dal.* 142.

Any having lands in fee-ſimple, or fee-tail of an hundred pounds *per annum*, finding any not having lands of forty pounds *per annum*, nor worth two hundred pounds in goods, to uſe any Gun, Bow, Dogs, or Engines for killing of Deer, or Hare, except Parker, or Warrener, or owners of either of them, or other grounds incloſed for Deer or Conies, that ſhall be yearly worth forty ſhillings, may take any their Guns, Bows, Engines and Dogs, and keep them to his own uſe. 3 *Jac. c.* 13. *Dal.* 92.

So licenſe by one Juſtice to ſearch, and ſeiſe, 22, 23 *Car.* 2.

Lay-perſon not having in lands forty ſhillings *per annum*, ſpiritual perſon a benefice not ten pounds *per annum*, keeping Dogs to hunt, or uſing ferrets, &c. ſhall be impriſoned for a year. 13 *R.* 2. *c.* 13. *Vide* Parks. *Vide Dal.* 116.

If any perſon ſhall unlawfully courſe, kill, hunt, or

or carry away any red or fallow deer, in any Forest, Chace, Purliew, Wood, Park, or other ground where Deer are, or usually have been kept within *England* or *Wales*, without the consent of the owners or party chiefly trusted with the custody thereof, and shall be convicted thereof, or as aiding and assisting therein, by confession of the party, or oath of one or more witnesses, before one or more Justices of the Peace of the County where the offence was committed, and being prosecuted within six months after the offence done, shall forfeit for every such offence twenty pounds to be levied by distress upon the offenders goods, one moiety whereof to the Informer, the other to the owner of the Deer: And for want of distress, the offender to be committed to the House of Correction for six months, and there put to hard labour; or to the common Goal for one whole year, at the discretion of the Justice before whom the conviction shall be, and not discharged from thence until sufficient Sureties be given for the good behaviour. 13 *Car.* cap. 2. 10 But no offender punished by this Act shall incur any penalty upon any Law for the same offence. *Ib. Dal.* 116.

Persons that take or kill Conies upon the Borders of Warrens or other Grounds, &c. shall give satisfaction to the owner, and pay to the poors use what under ten shillings the Justice shall think fit; or be sent to the House of Correction, 22, 23 *Car.* 2.

Jesuits

Jeſuits and Seminary Prieſts,

COming into *England*, or any the Kings Dominions, and remaining there, is Treaſon. 27. *El.* 2.

Any Juſtice of Peace within the County, in which any Jeſuits, Seminary Prieſts, or other Prieſts, Deacons, Religious, or Eccleſiaſtical perſon ſhall arrive, or land, may within three days after take the ſubmiſſion-oath, and acknowledgment of him touching his obedience to the King and Laws provided in caſes of Religion. 27 *El. c.* 2. *Lam.* 198. *Dal.* 193.

A ſuſpicious perſon refuſing to anſwer directly, whether a Jeſuit or no, ſhall be committed without bail till he do. 35 *El.* 2.

Every one underſtanding that any ſuch Prieſt, *&c.* ſhall be within any of the Kings Dominions, ought to diſcover the ſame to ſome Juſtice or other ſuperior Officer within twelve days after ſuch knowledge, under the pain of Fine and Impriſonment; and the Juſtice within twenty eight days muſt give information thereof to one of the Privy Council, on pain of two hundred marks. 27 *El. c.* 2. *Lam.* 198. *Dal.* 193.

Two Juſtices of Peace of the County where any of the Kings Subjects that are no Jeſuits, *&c.* brought up in any College of Jeſuits, or in Seminaries, ſhall arrive within ſix months after proclamation made to that end, may within two days after their return take their ſubmiſſion under the oath of Supremacy. 1 *El. c.* 2. 27 *El.* 2.

To receive Jeſuits or Seminary Prieſts, contrary

to the Statute, is felony. *Lam.* 414. 27 *El. c.* 2. *Dal.* 388.

Any, within three days after the offence committed, diſcovering to any Juſtice of Peace, any Recuſant, Seminary, or Popiſh Prieſt, or any Maſs to have been ſaid (any of them then preſent there) if by reaſon of his Diſcovery, any offender be taken and convicted, he ſhall be freed from the danger of the offence, and have the third part of the forfeiture by ſuch offence. 3 *Jac. cap.* 5. *Lam.* 199. *Dal.* 194.

Impriſonment. Vide *Priſon.*

Indictment. Vide *Enditement.*

Information

Againſt a Felon, whether it ſhall be taken by oath or no, is uncertain, but *Lam.* 213, 214, 215. *Dal.* 411. *Cro.* 194. 2. *nu.* 5. do beſt allow it by oath, and ſo do divers Judges in their Circuits.

Information of one decrepit, or unable to travel, may be taken upon oath, and certified at the next General Goal Delivery, or Seſſions of the Peace. *Dal.* 408.

No proceſs can be awarded upon information of a private perſon, unleſs where the ſtatute particularly warranteth inquiry by information; as the Statute of 5 *El. cap.* 4. of Labourers. 5 *El. c.* 21. of taking of Fiſh, Deer, or Hawks.

Information of ſuch as bring a Felon, muſt be taken by a Juſtice of Peace; ſo much thereof as is material, he muſt put in writing within two days after the examination. *Lambert* 212. 2 & 3 *Phil.* & *Mar. c.* 10. *Dal.* 406.

Two

Two inform againſt another in matter of Felony, and do vary in their tales, *viz.* in the day and place when and where it was committed; ſuch information is not to be credited. *Dal.* 403. *Cro.* 100. 2.

So where part of the information is proved falſe, he ſhall not be credited for the reſt. 18 *Ed.* 3.

The bringer of the ſuſpected will not inform, it is meet to bind him over to give evidence. *Dal.* 409.

Form of a Recognizance for the Informer againſt a felon. *Lam.* 214, 216.

It is not neceſſary in an Information for the King to recite the ſtatute upon which the Bill is framed; but to ſay *contra formam ſtatuti in hujuſmodi caſu editi & proviſi.* Cro. 104. b. nu. 50, 53.

Informers and Promoters.

The former muſt exhibit his information in perſon, or by Attorney in Court, not by deputy. 18 *El.* 5.

A Note of the day, month, and year of the exhibiting without antidate. *Ib.*

Informer compounding for any offence againſt a penal Law, without conſent of ſome of the Courts of *Weſtminſter*, or willingly delaying or diſcontinuing a ſuit, loſeth ten pounds, and is to ſtand in the Pillory, being convict thereof at the Quarter, Seſſions. 18 *El.* c. 5. 27 *El.* c. 10. *Lam* 439, 609. The ſame to be heard at the Quarter Seſſions. *Vide* Pillory.

All actions for any offences againſt any penal ſtatute, ſhall be commenced in the County only where the offence was committed, and upon the defendants pleading *Nihil debet*, or Not guilty, the plaintiff muſt prove, 1. The offence. 2. To be done in the County. 21 *Jac. cap.* 4.

So

So by information, or original Action. 18 *El.* 5.

No Officer shall receive, file, or enter of record, any Information, Bill, &c. until the Informer hath taken his oath before some Judge of that Court, that the offence was done in the same County within 2 years before the information or suit. 21 *Jacob. c.* 4. Dalton 545.

None shall be an Informer, that is disabled by misdemeanor. 31 *El.* 5.

The County must be alledged in the Declaration, where the offence was, and that may be traversed (except in Champerty, buying of Titles, Extortion, or Offences against 1 *El.* 11. 20. for Tunnage, &c. or for Usury, Regrating, &c. the penalty exceeding twenty pounds.

Suit for an offence where the penalty is to the King alone, must be brought within two years; where to the King and Prosecutor, within one year after the offence committed; except the Statute of Tallage, &c.

Suits for unlawful Games, or not being Apprentice, determined at the Sessions, or Assizes.

Like process as in action of Trespass, *vi & armis* at Common Law. 21 *Jac. c.* 4.

Except Recusancy, Champerty, Titles, Transportation of Gold, &c. Ordnance, Wool, &c. or Tunnage, &c. *Ib.*

The Defendant may plead the general issue, and give the special matter in evidence.

One cannot exhibit two Informations in the same or several Courts for the same offence; but the first may be pleaded in bar of the second. *Hob.* 209, 128.

Informations are (*Stricti Juris*, and) excepted out of the Jeofail Statutes.

Statute of 21 *Jac.* gives no Jurisdiction to Justices of Peace where they had none before; but appoints, that where they lay in the Courts at *Westminster*, and

and Seſſions, now at the Seſſions only. 1 *Crom.* 112.

Stat. giving Juriſdiction to the Seſſions, not expreſſing it to be by Information, it ſhall be by Inditement. *Ion.* 133.

Suit directed to any Court of Record, or any of the Kings Courts of Record; is intended the Kings Courts at *Weſtminſter*. *Ib.* 193.

If the Informer in the Tain, &c. die, the Attorney General may proceed for the King, and he cannot hinder the Informer for his part. 3 *Inſt. Inform.*

Stat. 18 *El.* extends not to Officers of Record: nor to perſons to whom the penalty is given in certain.

Nor to Informations upon the Statute of Maintenance, Champerty, Titles, Embracery, as to parties grieved: ſo 31 *El.* as to parties grieved Information lies in any County.

Ingroſſer.

Ingroſſer is he, that by any contract (unleſs by grant of land or tythe) buyeth Corn on the ground, or other dead Victuals, to the intent to ſell them again, except buyers of Barley or Oats, to make Malt or Oat-meal. Victuallers not foreſtalling, Badgers and Drovers not abuſing their lawful licenſe, buyers of foreign commodities, except fiſh and ſalt, are excepted. 5 *Ed.* 6. *cap.* 14. 5 *El. cap.* 12. 13 *El. cap.* 25. *Lamb.* 451.

Inn-holder.

Any man may ſet up an Inn; it is no Franchiſe. 12 *Rol.* R4.

Inn-holder taking any thing for Litter, or exceſſively

for Hay, or above a half penny a bushel above the market for Oats, loseth four times the value of the over-plus. 13 *R.* 2. *c.* 8. 4 *H.* 4. *c.* 25. *Lam.* 473. repealed by 21 *Jac. c.* 21.

Inn-holder or Ale-house-keeper may be compelled by a Constable to lodge Strangers. *Dal.* 30.

Inn-holder that suffereth a non-inhabitant to tipple in his house, shall incur the penalty limited. 1 *Jac. c.* 9, 1 *Car. c.* 4.

Inn-keeper, Taverner, Victualler, is within the Statute. 1 *Jac. c.* 9. 4 *Jac. c.* 5. 1 *Car. c.* 4. 8 *Co.* 32.

Vide plus in Ale-houses, Hay and Oats, Horse-bread, Forestallers.

Inmates. Vide *Cottages.*

Inrolment.

One Justice of Peace may joyn with the Clark of the Peace in taking of an Inrolment of an Indenture of bargain and sale of Lands, *&c.* lying in the same County, and either of them is to have twelve pence, if the land exceed not in value forty shillings a year; and if it do, then two shillings six pence a piece; and taking above, fined. 27 *H.* 8. *c.* 16. *Lam.* 196, 365, 393. 456.

The Inrolment must be in six Lunar Months (twenty eight days) from the date, or delivery. 6 *Co.* 62.

But when a Statute mentions a year, half year, *&c.* the account shall be according to the Solar Month, according to the Kalendar. *Ib.*

Issues

Iſſues.

The Sheriff that gatheteth other eſtreats of iſſues then of right are due, forfeiteth five marks to the King; as much to the party. 27 *El. c.* 7. *Cro.* 201. 2. *Lam.* 432. Forfeitures of iſſues by Jurors are to be levied by Records of execution awarded by the Juſtices of Peace. 27 *El. cap.* 7. *Lam.* 585.

Fudgment.

Ambiguity ariſing in Judgment betwixt the Juſtices of Peace, they ſhall forbear to proceed till the Judges come; but if they will proceed, the Judgment is not void, but muſt be reverſed. *Lam.* 568. the Commiſſion it ſelf.

Where the Statute appointeth a puniſhment, there Judgment muſt be according to the Statute. *Lamb.* 370.

Upon Treſpaſs, Riots, and ſuch other offences, where no forfeiture is preſcribed, Judgment is to be taken, and ranſomed. *Lam.* 570.

Judgment of being hang'd, cannot be altered to beheading. 12 *Co.* 132.

Judgment given at *Lyn* on a Sunday is void. *Dies Dominicus non eſt juridicus.* 3 Cro. 227.

Judgment *coram Juſticiariis in Comitatu Flint.* (omitting *Magnæ Seſſionis*) yet is good by intendment, 1 Cro. 570.

Vide plus in the ſeveral offences.

Fuglers. Vide *Licenſe.*

Furors.

Jurors both for enquiry and Tryal, ought to be *Probi & legales homines.* Lam. 396.

What persons may not be Furors; and being Furors make Presentments void, unless there be twelve besides.

1. Attainted in Conspiracy. 2. Attaint. 3. *Decies tantum.* 4. Subornation of Perjury. 5. Concealment; they be not *probi*, and their Presentment void, unless there be twelve besides them that are not blemished. *Lam.* 396. 6. Out-lawed. 7. Abjured. 8. Condemned in a *Præmunire.* 9. Attainted of Treason. 10. Felony, &c. *Ibid.* 11. Women. 12. Infants under fourteen years of age. 13. Aliens. 14. Clergy-men. *Ibid.*

Jurors must no be nominated by any but the Bailiffs, as well in Inquisitions before the Coroners, as Indictments before Justices of Peace. 1 *Cro* 134.

Jurors must be Inhabitants or Free-holders within the County, to the value of four pounds *per annum*, by 27 *El.* 6. but in Cities and Boroughs to the value of forty pounds in goods. *Lam.* 396, 397.

A Juror having any Free hold in Information of Intrusion, it is sufficient. 3 *Cro.* 413.

Jury of all Denizens, where the Defendant is *extraneus* is good, unless he pray a Jury *per medietatem linguæ*, 3 *Cro.* 869.

Where a Baron is sued, a Knight must be return'd of the Jury. *Ib.*

Jurors for trial of an Indictment within the Court Palace

Palatine of *Lancaſter*, muſt have five pounds *per annum*. *Ibid.*

Juror ſeventy years old or decrepit returned by the Sheriff, muſt ſerve, if the Juſtices will; but he may ſue the Sheriff upon the Statute of *Weſtminſter*. 2. *c.* 38. *Lam.* 397.

Juror exempted by Charter with theſe words [*Licet tangat nos*] is to be diſcharged upon his appearance, but he ought to ſhew it to the Sheriff. *Ibid.*

When there is want of ſufficient Jurors, no exemption can diſcharge. *Ibid.*

Preſentment is good, tho ſome of the Jurors be allied to him that procureth the preſentment; but is no diſcretion in the Juſtices to ſuffer any ſuch to be impanelled. *Lam.* 398.

If the particular Juries for the Hundred cannot be ſupplied by thoſe of the Hundred, it is better to take *Tales de Circumſtantibus* of other Hundreds, than to be renewed with a *Tales* from Seſſions to Seſſions. *Lamb.* 398.

Gipſies outed of the benefit *per medietatem linguæ* at their tryal, by 1, 2 *P. M. c.* 4.

Jury of one Hundred may preſent an offence done in another Hundred. *Lamb.* 399.

Juſtices may command the Sheriff to alter the panel, and he refuſing, forfeiteth twenty pounds. *Ibid.* 3 *H.* 8 *c.* 12.

All the Jurors muſt be ſworn, otherwiſe their Preſentments are void; but the Record being that all the Jurors were ſworn, the Preſentments are good, tho all be not ſworn. *Lam.* 399.

Jurors amerced for refuſing to preſent, being ſworn. 18. 39, 2.

Juror after he is ſworn, upon cauſe may be removed by the Juſtices. *Lam.* 400.

Jury after ſwearing adjourned to another time, may be then ſworn again. *Ibid.*

Jurors of Inquiry muſt be twelve, but there may be

more, and it is best to have them odd. *Lam.* 400.

If twelve Jurors do agree, the residue cannot gainsay. *Ibid.*

Juries of Inquiry ought not to be committed to a keeper, nor kept without victuals, nor carried out of the Town, but may be adjourned to another place to give up their verdict. *Lam.* 400.

Jurors which do wilfully conceal offences presentable, and which be complained of by Bill, may be inquired of by persons whereof every one may dispend forty shillings *per annum*; and such concealment being found within a year after, every Juror shall be amerced in open Sessions. 3 *Henr.* 7. *cap.* 1. *Lambert* 400, 401.

Jurors that discover what they have done, are to be fined. *Lam.* 402. If in Treason, or Felony, it has been adjudged Felony. *Dal.* 377.

Juror taking any thing to make a favourable presentment, shall be imprisoned and ransomed. *Lam.* 441. *Cro.* 84. 2. 5 *Ed.* 3. *c.* 10.

No Juror to be returned without an Addition whereby he may be known. 27 *El. c.* 7. *Lam.* 432.

Vide plus in Challenge.

Justice of Peace his Power.

Justices of Peace were created. 1 *Ed.* 3. *c.* 15. *Dal.* 6. *Lam.* 20. But first named so by 36 *Ed.* 3. *c.* 12.

Justice of Peace is a Judge of Record. Therefore called Justices. Before 1 *Ed.* 3. called Conservators. 3 *Cro.* 93. *Dal.* 6. *Cro.* 120. 2. *nu.* 1. *Lam.* 62. 14 *H.* 8. 16.

He may take a Recognizance of Peace, which none can do but a Judge of Record. *Dalt.* 8. *Lam.* 186. *Crom.* 196. 2. *num.* 1.

He is called Commissioner of the Peace, because authorised

authoriſed by the Kings Commiſſion. So *Cuſtos pacis* the ſame with *Juſticiarius pacis.*

The Conſtitution of Juſtices of Peace is inherent in, and inſeparable from the Crown. *Stat.* 27. *H.* 8.

This power cannot be transferred. 20 *H.* 7.

His warrant is not diſputable by the Conſtable, but it is to be underſtood when the Juſtice of Peace hath juriſdiction of the cauſe. *Dal.* 8. *Cro.* 147. b. *Lamb.* 65. 91. 14 *H.* 8. 16.

His teſtimony in ſome caſes is of as great force, and in ſome caſes greater, than an Indictment of twelve men upon oath; as in the caſes of force, riots, preſentments of high-ways. *Dal.* 9. *Lam.* 65.

Juſtice of Peace being aſſaulted, may commit the offender to priſon. *Crompt.* 68. a. *Lambert* 134. *Dalt.* 371.

So *Crompton* thinketh that a Juſtice of Peace may record a forcible entry made upon his own poſſeſſion, and commit the offender. *Crom.* 65. b. 58. a. *nu.* 4.

Juſtice of Peace chargeth one that maketh an aſſault or affray, to keep the Peace, who anſwereth he will not; the Juſtice of Peace may bind him to his good behaviour. *Dal.* 294.

Juſtice of Peace muſt proceed by the preſcript of the Commiſſion and Statute. *Dal.* 22.

Where the Statute referreth the tryal, *&c.* to the Juſtice of Peace his diſcretion, it ſeemeth he may examine upon oath. *Dal.* 20.

Every Juſtice of Peace is a Conſervator of Rivers within his County. *Lam.* 189.

Juſtices of Peace at their Seſſions are of equal authority. *Lam.* 385. *Vide Crom.* 122. a. *nu.* 33.

Juſtice of Peace muſt ſend his priſoners to the common Goal, *Lam.* 133. 5 *H.* 4. *c.* 10.

A Felon is brought before a Juſtice of Peace upon ſuſpicion: tho it appear to the Juſtice he is not guilty, yet he may not ſet him at liberty, but ſo as he may come to his Tryal. *Lam.* 233. *Dal.* 389. *Cro.* 40. b.

nu. 20. otherwiſe it will prove a voluntary eſcape in the Juſtice; for he is not to be delivered by any mans diſcretion. *Dal.* 8. *Lam. ut ſupra.*

The Accuſer not to be reproved, tho the Suſpect proved innocent. *Dal.* 414.

A man is arreſted for Felony by a Conſtable or other, who afterwards hath knowledge that there is no ſuch felony done; the opinion of *Keble*, *Conisby*, and Serjeant *Frowick* was, that he might ſet him at liberty; but if one be killed, and another be arreſted for ſuſpicion, tho after he know the arreſted is guiltleſs, or was arreſted for malice, he ought not to ſet him at liberty, but muſt be delivered by courſe of Law; otherwiſe it is felony. *Cro.* 40 *nu.* 20. b.

Ex Officio *Juſt. may*

Record a demurrer upon the evidence. *Lam.* 539.

Give day to the party to bring in a Record that is before other Juſtices, which is pleaded by way of Juſtification. *Lam.* 539.

They may take money for ſecurity of the Peace, *in depoſito*, which upon breach of the Peace ſhall be forfeited to the King. *Juſt. Berkley*, 1 *Cro.* 446.

If thinking an Inditement to be void, they have diſcharged the priſoner, paying his fees; yet (upon change of their opinion) they may ſtay him any time before judgment. *Lam.* 540.

In abſence of the Kings Attorney, the Juſtices of Peace may take iſſue with one that pleadeth a pardon, that he is one of the parties excepted. *Lam.* 540.

Juſtices of Peace may inquire of all manner of Felonies at the Common Law, or given by any ſtatute, and of all manner of Treſpaſſes done againſt the Peace of the King, and of ſuch Treſpaſſes, wherein Action of the Caſe will lie for treſpaſs, or deceit; for in the end

end of the Writ grounded upon the caſe, it is contained *contra pacem noſtram*. *Cro.* 8. 2. *nu.* 25.

If one Juſtice abuſe another in open Seſſions, it ſeems the reſt may bind him to the Peace, *Crom.* 122. 2. *nu.* 33. 134. b. *Lam.* 385.

Defaults againſt the Statute of 3 *Hen.* 6. *c.* 11. for levying of wages for Knights of the Shire, are to be heard and determined by Inquiry for the King; or action for the party before the Juſtice of Peace. *Lam.* 512.

Juſtice of Peace needs not ſhew his Commiſſion, by which he is made Juſtice, when he juſtifieth the doing of any thing as a Juſtice; for he is Juſtice of Record, and the Commiſſion remaineth with the *Cuſtos Rotulorum* of the ſaid County, and he is called by the Commiſſion in open Aſſizes and Seſſions. *Crom.* 120. b. *nu.* 13. *Lam.* 387.

Juſtice of Peace may have his Action of the Caſe againſt him, that calleth him *Falſe Juſtice of the Peace*. It ſeemeth alſo, that he may be indicted; for they may enquire of all treſpaſſes, where a man may have his Action of the Caſe. *Crom.* 121. 2. *nu.* 21. & 122. 2. *nu.* 29.

Quicquid Juſticiarius fecerit de Recordo, ignoranter & pro defectu ſcientiæ, non erit pro eo punitus. Sicut accidit de Seneſchallo libertatis Abbatis de Crowland, qui colore libertatis de Infangthefe, judicavit hominem mal contra Legem: pro eo Libertas ſeiſita fuit in manus Regis, & nulla pœna Seneſchallo. Crom. 121. *b.* nu. 24.

Juſticiarius non poteſt puniri pro re per ipſum facta judicialiter: ſed Officiarii, & Vice comes, & alii Officiarii de Recordo erunt puniti. Crom. 122. 2. nu. 28.

Juſtice of Peace certifieth into the Kings Bench, that ſuch a man broke the Peace in his preſence, the party ſhall be put to his fine without any Traverſe to the ſame. *Crom.* 132. 2.

Juſtice of Peace who is of the *Quorum*, ought to be

be resiant within the County where he is Justice of the *Quorum*. 2 *H.* 5. *c.* 4. *Crom.* 122. *a. nu.* 34.

Justices at *Newgate* sit by virtue of two Commissions, Goal-delivery, and *Oyer* and *Terminer*. 4 *El.* 3. *cap.* 2.

When the same persons are Justices of Goal-delivery, and *Oyer*, &c. they may sit the same day and place, and inquire by the same Jury; but the entry of the Records must be several, as the Inditement is, *Dalt.* 168.

Justice of Peace commandeth one upon pain of ten pounds by his precept, to be at the next Quarter Sessions, and he appeareth not: No *Scire facias* shall go forth more than if there had been a *Subpœna*: but it seemeth that he shall be attached to be at the next Sessions, upon contempt. *Crom.* 123. *a. nu.* 9.

One Justice of Peace

May compel one fit (in his discretion) to be bound Apprentice by 5 *El.* 4. So take order, &c. *Vide* Labourer.

One Justice of Peace may cause all such as are fit to work in Harvest, and Hay-time. So license them to go into another County.

One Justice of Peace shall rate the prizes for deceitful Malt to be sold at, by 2 *Ed.* 6. 10.

One Justice of Peace, it seems, may give direction to Searchers, Watchmen, and keepers of infected persons. *Cor.* 122. *b.*

One Justice of Peace shall cause to be whipped Trespassers in Corn, Orchards, Hedges, or Woods, not able to give satisfaction.

One Justice of Peace, it seems, may hear and determine by examinations or otherwise by his discretion, the offences of Tile-making.

One Justice of Peace may command vagrant persons

to

to priſon, if they will not ſerve. *Dalton. Vide* Labourers.

One Juſtice of Peace, upon his view of forcible Detainer, may record it by 15 *Rich.* 2. *cap.* 2. *Dalt.* 81, 82.

One Juſtice of Peace may cauſe High-ways to Markets to be enlarged, and cleanſed of Trees and Buſhes 13 *Ed.* 1. *c.* 5. *Dal.*

One Juſtice of Peace ſhall puniſh deceits in Cloth by Tenters, *&c. Vide* Cloth.

One Juſtice of Peace ſhall puniſh keepers of places for unlawful Games. *Vide* Unlawful Games. And the players there at thoſe Games.

One Juſtice of Peace ſhall puniſh prophane ſwearing in their preſence, or upon confeſſion: So curſing.

One Juſtice of Peace ſhall puniſh Sheriffs, that enter plaints unduely in their Courts. *Vide* Sheriffs.

One Juſtice of Peace ſhall puniſh offences in Watermen.

One Juſtice of Peace may puniſh Tranſporters of Corn. *Vide* Tranſportation.

One Juſtice of Peace ſhall puniſh the defaults of the Collectors of the Sheriffs amercements, and of Bailiffs of Hundreds. *Vide* Sheriff.

One Juſtice of Peace ſhall puniſh diſturbers of Preachers. *Vide* Preachers.

One Juſtice of Peace ſhall puniſh Soldiers that purloin their Horſe or Harneſs. *Vide* Soldiers.

One Juſtice of Peace may prevent a riot, ſtay it, and commit for doing it. *Vide plus* in Riots.

One Juſtice of Peace may upon complaint commit till the Aſſizes, or Seſſions, any Recuſant convict above eighteen years of age under a Baron: ſo for refuſing the Oath of Allegiance. 7 *Jac.* 6. 1 *El. Lam.* 199. *Vide* Recuſants.

One Juſtice of Peace may cauſe to be ſet in the Pillory in the next Market Town, perſons convict of breaking

ing the Aſſize of Fewel, and not able to pay the forfeiture, with a Billet or Faggot bound to his Body. 7 *Ed.* 6, 7.

Quære, if one may convict him alone.

One Juſtice of Peace may upon view, or proof by two witneſſes, warrant the levying of the twenty ſhillings forfeiture for an unlicenſed Ale-houſe, for the poor. *Vide* Ale-houſes. 3 *Car.* 3.

One Juſtice of Peace may cauſe an unlicenſed Aleman to be openly whipped, where is no ſufficient diſtreſs, after conviction. 3 *Car.* 1. 3.

One Juſtice of Peace may demand the Peace againſt another man. *Lam* 81.

One Juſtice of Peace may puniſh perſons armed contrary to 2 *Ed.* 3.

Every Juſtice of Peace before he acts, ſhall take the Oaths of his Office, the Oaths of his Allegiance and Supremacy. *Vide* the form. *Dal.* 13, 14, 15.

The Oath of the Office ſeems to be by 13 *R.* 2. of Supremacy by 1 *El. c.* 1. of Allegiance by 3 *Jac.*

In open Seſſions by 5 *El.* or at the Aſſizes, or before Commiſſioners, who for falſe returning the Commiſſion, and Oaths to be taken (not true) were finable in the Star-chamber, but now in the Kings Courts at *Weſtminſter*.

Juſtice of Peace is taken to be within 25 *Car.* 2. and ſhall take the Oaths of Supremacy at *Weſtminſter*, if reſiding at, or within thirty miles of *London*, or at the Quarter Seſſions for the County, and after proof of the Sacrament received, as the Statute directs, ſhall abjure Tranſubſtantiation in the Sacrament. *Vide* the Form. *Dal. fo.* 16.

The *Cuſtos Rotulorum* is ever Juſtice of *Quorum*. *Lam.* 387.

Juſtice may inquire of *Felo de ſe* (hid or caſt into the Sea) where the Coroner cannot have the view. 3 *Inſt.* 55.

Send Writs for fugitive Labourers by 2 *H.* 5. 4. *St.* 1.

He

He may take an Information out of the County, againſt an offender in the County. 1 *Cro.* 213.

So a Recogniſance to proſecute by aſſent of the parties, out of the County. But cannot uſe coercive power. *Ib.*

Juſtice of Peace inhabiting in the Hundred where one was robbed, may take his Oath in *London*; being but an examination, and no act of Juriſdiction.

Juſtice of Peace in *London* muſt ſend Felons to the Common Goal, not to the Counter. 8 *Co.* 120.

He may take an Inditement of Baratry without a ſpecial Commiſſion. 1 *Cro.* 32.

Juſtice may alter the panel in open Court, of a Jury ſworn for the King only. 12 *Co.* 59.

Juſtice may award a *Cap. utlagatum* throughout *England* againſt a profaner of the Sacrament. 12 *Co.* 103.

Aldermen of *London* made Juſtices by *Edw.* 3. 1 *Inſt.* 7

One Juſtice of Peace (by *Crompton's* opinion) may bail a priſoner examined and committed by two Juſtices before. *Dal.*

One Juſtice of Peace ſufficient to certifie carrying of Corn from one place to another to ſell againſt the Statute of Fore-ſtalling, joyned with the Cuſtomer.

One Juſtice of Peace may bind a Cheater to his good behaviour, *&c.* *Dal.* 63. 7 *Jac.*

One Juſtice of Peace ſufficient to convict of Drunkenneſs, by 21 *Jac.* 7.

One Juſtice of Peace may ſeiſe the Goods of Gypſies in a month after their arrival, *&c.* by 22 *H.*8.10. *Vide* Egyptians.

One Juſtice of Peace may record a Riot in his view, and commit them, or bind them to the good behaviour: but proceed no further. *Dal* 195.

One Juſtice of Peace ſhall puniſh ſpoilers of Fiſhponds, and cut, or burn their Nets. 17 *Rich.* 2. *Vide* Fiſh.

One

One Justice of Peace may commit or bind over persons, in order to prosecution of seditious Sectaries. 13, 14 *Car.* 2. called Quakers.

One Justice of Peace may take the claim of a Horse stollen. 31 *El.* 12.

One Justice of Peace shall examine, and bind to the good behaviour, unlawful Hunters in the night, &c. 1 *H.* 7. 7.

So killing or taking Conies in the night. 22, 23 *Car.* 2.

So for hunting Deer, against 13 *Car.* 2. *c.* 10.

One Justice of Peace to convict offences against the Statute of *Logwood.* 39 *El.* 11.

One Justice of Peace to take Recognisance of offenders disobeying the Statute, (39 *El.* 16.) of Malt-making.

One Justice of Peace shall compel a Vintner to draw a man wine, who demands it, and offers payment 14 *H.* 8. 6. *Dal.* 242.

One Justice of Peace may convict of embezelling Silk. 14 *Car.* 2. 15. *Dal.* 226.

One Justice of Peace to convict of breach of the Lords Day against 29 *Car.* 2. and so to allow of cause for travelling in a Boat on Sunday. *Ib.*

One Justice of Peace to convict of altering the mark of Keels, &c. against 30 *Car.* 2.

Two Justices of Peace,

To bind one to appear at the Quarter Sessions, to answer his offence against a penal Law. *Lambert* 187. *Dal.*

Two Justices of Peace upon view of Riot or Rout, to record the same, and with the Sheriff, or Under-Sheriff. 13 *H.* 4. *c.* 7. *Cro.* 61. *num.* 9. So inquire by a Jury, and fine the Rioters. *Dal.* 195. *Quære.*

Two

Two Juſtices of Peace, upon complaint that a Servant departed before his term ended, *&c.* to examine and commit, *&c. Vide plus* in Labourers.

Two Juſtices of Peace may allow and diſcharge Ale-houſe-keepers, at diſcretion. *Vide* Ale-houſes.

Two Juſtices of Peace for appointing Over-ſeers of Woolen Cloth for a year, *&c.*

So to convene perſons fit to diſcover any offence in the making of deceitful Cloth. *Vide plus* in Cloth.

Two Juſtices may impriſon for a year or leſs at diſcretion, ſervants aſſaulting their Maſter.

So compel women to ſerve for ſuch wages and manner as they think fit.

Two Juſtices of Peace, to tax others of the County to the relief of places infected, *&c.*

Two Juſtices of Peace, to tax the Hundred towards relief of the Poor of any Town overcharged.

Two Juſtices of Peace may diſpoſe of all forfeitures to grow upon the Statute of Rogues, at diſcretion, *&c.*

Two Juſtices of Peace may aſſeſs proportionably all the Pariſhes within the Hundred, towards contribution for the parties charged upon a Robbery.

Two Juſtices of Peace ſhall take order to ſet poor Soldiers a work, who cannot get work; and for want of work tax the Hundred for relief of ſuch Soldiers. 21 *Jac.* 28. *Vide* Mariners, Soldiers.

Two Juſtices of Peace may fine the Head-Officers in Boroughs and Market Towns, who do not view all weights and meaſures, and break and burn the defective.

So fine all Buyers and Sellers with unlawful weights at diſcretion.

Two Juſtices of Peace may allow Surveyors and their Servants or Workmen to take materials for the amendment of High-ways in another Pariſh, where requiſite. 14 *Car.* 2. *c* 6. *Vide plus* in High-ways.

Two Juſtices of Peace (one of the *Quorum*) upon complaint of the Church-wardens may convene before

fore them the Bailiff and High Constables, and take their accounts of forfeitures and defaults estreated about High-ways. *Vide* High-ways.

Two Justices in *London* shall allow of Scavengers under their hands: so confirm a Tax of the Constables, Church-wardens and Surveyors, &c. *Vide* High-ways.

Two Justices of Peace in *London* to determine the matter of buildings and inhabitants there. 35 *El.* 6.

Two Justices of Peace (one of the *Quorum*) may commit one for a misdemeanour about Tithes. *Vide plus* in Tithes.

Two Justices of Peace may take the Oaths of Under-Sheriffs, Bailiffs, &c. *Vide* Oath.

Two Justices of Peace (appointed by the *Custos Rotulorum*, or eldest Justice, one being of the *Quorum*) for examination of the Sheriff and Officers, and Books of Amercements in the County Court. 11 *H.* 7. 15. *Vide plus* in Sheriff, Oath.

Two Justices of Peace (one of the *Quorum*) may commit any above eighteen years, under degree of a Baron, for refusing to take the Oath of Allegiance, &c.

Two Justices of Peace to take the submission of persons brought up in a Jesuits College. *Vide* Recusants.

Two Justices of Peace to bail one arrested for Manslaughter, Felony, or upon suspicion of them (one of the *Quorum*) *Vide* Bailment.

Two Justices of Peace to take order about a Bastard child laid to the Parish, (one being of the *Quorum*) 18 *El.* 7. *Fac.*

Two Justices of Peace to give the Oaths of Supremacy, and of the Office, to Bailiffs of Franchises, (*Quorum unus*, &c.)

Two Justices of Peace shall punish destroyers of Partridges, and their Eggs, &c. Hares, or that keep hunting Dogs, &c. 1 *Jac.* 27.

So

So of Pheſants, or Partridges, &c. 7 *Jac.* 11. *Vide* Partridges.

Two Juſtices of Peace, to cauſe Logwood to be burnt, where found. 23 *El. c.* 9.

Two Juſtices of Peace, to convict of deceitful Malt-making againſt 39 *El.* 16. and commit therefore.

Two Juſtices of Peace, to bind by Recogniſance the Defendant in a ſuit for Tithes, to obey the ſentence of the Eccleſiaſtic Judge. *Dal.* 459.

Two Juſtices of Peace, to ſign a Teſtimonial of a Servant turn'd off, or his Maſter dead. 27 *El.* 11. *Lam.* 331.

Two Juſtices of Peace, to convict of oppoſing the execution of the Statute againſt planting Tobacco in *England*. 22, 23 *Car.* 2. *Dal.* 237.

So to warrant deſtroying it; to convict refuſers to aſſiſt. *Ib.*

Two Juſtices of Peace, to ſend to a Work-houſe, Priſoners brought before them by *Habeas Corpus*, according to 30 *Car.* 2. *Vide* Priſoner.

Two Juſtices of Peace may licenſe poor perſons (diſeaſed) to travel to the Bath for remedy, *&c.* by 39 *El.* 4.

Two Juſtices (one of the *Quorum*, *&c.*) to take Enditements and Inquiſitions. *Lam.* 48.

Two Juſtices of Peace to determine forfeitures and offences againſt the Exciſe Statute. 12 *Car.* 2. 20, 23 *Car.* 2.

Two Juſtices of Peace to make a Teſtimonial for a Servant, *&c.* 27 *El.* 11.

Two Juſtices of Peace to warrant Conſtables, *&c.* to ſearch for ſetting dogs, and nets for taking Partridges. 7 *Jac.* 11.

Two Juſtices of Peace may commit for three months, Rooters (againſt 1 *Jac.* 27.) at Partridges, *&c.* unleſs he pay twenty ſhillings.

Two Juſtices of Peace to proceed upon offence againſt 43 *El.* of Hedge-breaking, *&c.* done to one of them.

Two Justices of Peace (with the Bishop and his Chancellor) to call to account the Collectors of an Hospital. 14 *El.* 5.

Two Justices of Peace to bind over a suspect of counterfeiting Tokens and Letters. 33 *H.* 8. 1.

Two Justices of Peace to search for Popish Books, and Reliques. 3 *Jac.* 5.

Two Justices of Peace shall punish the defaults of the Overseers of the poor. *Vide plus* in Poor.

Two Justices of Peace shall punish offenders disturbing the execution of the Statute against Rogues.

Two Justices of Peace to send to the house of Correction persons about to leave their Families to the Parish, by 7 *Jac.* 4.

Two Justices to examine offenders in Buckstalls, &c. against 19 *H.* 7. at the Sessions. *Vide* Buck-stalls.

Two Justices of Peace may make Warrants to Churchwardens and Overseers, to levy arrears of the Tax for the poor, &c. *Vide* Churchwardens, Poor.

Two Justices of Peace (*Quorum unus*) to reform false measures, or neglect of the Clark of the Market. *Dal.* 251.

Two Justices of Peace, upon Certificate of the Bishop, to commit a Non-conformist. 14 *Car.* 2. *c.* 14.

Two Justices of Peace to convict of not reading Common-Prayer. 14 *Car.* 2. *c.* 14.

Two Justices of Peace (*Quorum unus*) may bind over to the Sessions, or Assises one suspected of deceit by counterfeit Letters, &c.

Three Justices of Peace.

To license Glass-men to travel within the County without begging: one of the *Quorum*. 39 *El.* 4.

Three Justices of Peace to examine bestowing of money appointed by the Statute for mending High-ways.

ways, or Bridges. 14 *Elizab.* 5. 39 *Elizab.* 18.

Three Juſtices of Peace to take the Oaths of two witneſſes, of depraving the Sacrament. 1 *Ed.* 6. 1.

Three Juſtices of Peace to licenſe (under ſeals) Badgers and Drovers, &c. *Quorum unus*, &c. 5 *Elizab.* 12.

Three Juſtices of Peace to confirm By-laws in *Northfolk*, for *Norwich*-Stuffs, with others. *Vide* Cloth.

Three Juſtices of Peace (*Quorum unus*) ſhall take examination of thoſe that maim horſes, or cattel; or that deſtroy Nurſeries, or other young Trees, and throw down Incloſures in the night. *Vide* Felonies, &c.

Three Juſtices of Peace, to conſent to a Petition by 13 *Car.* 2. 5.

Three Juſtices of Peace (with the Biſhop and his Chancellor) to examine the employing the poors money, &c. 14 *El.* 5. 39 *El.* 18.

Three Juſtices of Peace to licenſe buying of Corn, to carry from one port to another. 5 *El.* 12.

Four Fuſtices of Peace

To diſcharge (under ſeal) an Apprentice ill uſed. 5 *El. Dal.* 120.

To tax the Inhabitants, and make Collectors and Overſeers for repair of a Bridge, where it is not known who ought to repair. 22 *H.* 8. 5.

To ſeiſe a Recuſants Arms, Ammunition, &c. 3 *Jac* 5.

To licenſe a Recuſant to travel (above five miles) with the aſſent of the Biſhop, or Lieutenant, &c. 35 *El.* 2. 3 *Jac.* 5.

To conſent and joyn with the Sheriff, or Goaler in a Corporation, for the removal of ſick priſoners, or others. 19 *Car.* 2. 4.

Four Juſtices of Peace, to remand (by warrant, under ſeal) Malefactors flying into *England*. 7 *Jac.* 1. *Dal.* 541.

Six Fuſtices of Peace

To appoint a common Goal for the Sheriff to have the cuſtody thereof. 23 *H.* 8.

To execute the Laws of Commiſſioners of Sewers, one being of the *Quorum*. *Dal.* 219. *Vide* Sewers.

Six Juſtices of Peace in the Commiſſion of the Peace with the Juſtices of Aſſize, by 12 *R.* 2. 1.

Eight Juſtices of Peace beſides the Lords, by 14 *R.* 2. 11. So two Lawyers in every County. 18 *Edw.* 3. 2.

The greateſt part of the Juſtices of Peace, to order a Houſe of Correction in every County.

The greateſt part to reſtrain (in open Seſſions) converting Barley into Mault. 39 *El. c.* 16.

The greateſt part to tax other Pariſhes for the Poor, where the Pariſh or Hundred is inſufficient. 43 *El.* 2.

So to imploy the over-plus of the maimed Soldiers ſtock for the poors uſe. 43 *El.* 3.

So to tax for relief of maimed Soldiers.

So to accounts of Treaſurers for maimed Soldiers. 43 *El.* 3.

Next Fuſtice.

Where a Statute ordereth the Juſtice moſt nigh to do execution, &c. as in 13 *H.* 4. of Riots, under pain of an hundred pound; he is excuſed, if another Juſtice (not next) does it.

Next Juſtice may licenſe Mariners to beg, having been ſhipwracked, 39 *Elizab.* 4. *Lamb.* 303. *Dalt.* 209, 227.

So to chuſe Fiſhermen to be Mariners by the Kings Commiſſion. 5 *El.* 5. *Lam.* 359. *Dal.* 139. *Vide* Mariners.

Next two Juſtices, to ſend a priſoner to a Work-houſe, &c. 30 *Car.* 2. *Vide* priſoner.

Fuſtice his Fees. Crom. 176. a. Dalt. 78.

For a Recogniſance for the Peace, two ſhillings.

For a Recogniſance to bail a priſoner, two ſhillings.

For a *Superſedeas* of the peace, two ſhillings.

For a Warrant of the Peace ſealed, two ſhillings.

For a Releaſe of the peace, two ſhillings.

For a Warrant not of the peace, four pence.

For a Recogniſance of an Ale-houſe-keeper, twelve pence.

For Inrollment of Deeds, the land not exceeding forty ſhillings *per annum*, one ſhilling, and to his Clark, one ſhilling.

If the land exceed forty ſhillings, then two ſhillings ſix pence to each, Juſtice and Clark.

Certain Forfeitures given by Statutes to a Fuſtice of Peace.

For every day they keep Seſſions (which may be three) they ſhall have out of the Fines coming by the Sheriffs hands by reaſon of the Seſſions, four ſhillings, and their Clark two ſhillings. 12 *R.* 2. 1c. *Vide* Seſſion.

For every day he ſits upon the Statute of Labourers (not exceeding three) five ſhillings. So to the Maior, or Head-Officer.

Thus out of the Fines arising out of that Statute. 5 *El.* 12. *Dal.* 130.

Where Maiors and Magistrates may act as Justices of Peace. *Vide* Maior and Magistrates.

Two Justices of Peace shall have the third part of defective Cloth. 5 *Ed.* 6. 6. *Lam.* 359.

Justices, who examine offences of Deer-hays and Buckstalls, shall have the tenth part of the Forfeiture, by 19 *H.* 7. 11.

Justices of Peace Fined.

In the Statute against Riots, if he does not execute it, an hundred pounds. 13 *H.* 4. *Vide* 13 *H.* 7. 13.

So in that of forcible Entry, ten pounds. 8 *H.* 6.

For neglect of taking order about a House of Correction, five pounds towards the building. 1 *Jac.* 4.

Exercising his Office before the Oaths taken. *Dalton* 14.

Bailing one not bailable; and refusing to bail (or detaining) one bailable fined, and to pay double to the prisoner. 3 *Ed.* 1. 15. 23 *H.* 6. 10.

For not being present at the annual tax of servants wages, ten pounds, 5 *El.* 4.

If he does not certifie into *B. R.* in forty days, &c. Presentments of extolling the Popes power, fined an hundred pounds. 5 *El.* 1.

For embezelling, willful razing, maliciously inrolling an Inditement not found, changing Indictment of Trespass into felony, fined and imprisonment, and loses his Office, *Lam.* 631.

Justices

Fuſtice of Peace puniſhed

For conſpiring with another to indite a Stranger at the Seſſions; otherwiſe for a thing done byhim as Judge. *Cro.* 122. a. *num.* 32.

Impriſoned for taking bond in his own name, and not *Domino Regi*; it concerning the King. 33 *H.* 8. 9.

Put out of Commiſſion, and puniſhed where they fail to do juſtice. 4 *H.* 7. 12. *Crom.* 120. b. *num.* 6. *Lam.* 370.

So for refuſing to take ſurety for the Peace, being tendred. *Vide Crom.* Juriſdiction of Courts. 31 b.

Embezelling or razing Records, forfeits his Office, and ſhall be fined, *Vide antea.*

Juſtice of Peace compelled to find ſureties for the good behaviour, for threatning a Juror for preſenting a matter; and not giving ſecurity, committed. *Dalt.* 534.

Fuſtice of Peace his Power fails

And his Commiſſion determines by the Kings Demiſe; Proclamation then is made by his Succeſſor that all in judicial places ſhall continue; but it is ſafe to act by new Commiſſion. 1 *Crom.* 1.

By the Kings command, at his pleaſure. As where he is diſcharged by writ under the great Seal.

By *Superſedeas.*

By a new Commiſſion granted, knowing thereof. *Dal.* 11. *Crom.* 188. a. *Lam.* 69.

By publiſhing the new Commiſſion at the Aſſizes, or Seſſions, County Court.

By holding open Sessions by vertue of the new Commission. *Ib.*

By accession of another Office, Sheriff, Coroner. *Crom.* 121 *num.* 13, 14. But not by a greater dignity, Knight, Sergeant at Law. *Crom.* 188. 2. *Dalt.* 12. *Vide* Sheriff.

He cannot legally act before the Oaths taken, but is finable. *Dal.* 13.

He cannot execute his Office in his own Case. *Cro.* 81. a. *num.* 4. *Dal.* 35.

Grants and Charters to Maiors of Corporations, and Head Officers, to be Justices of Peace are (tho not generally revocable as a Commission of the Peace) may upon great misdemeanor be repealed, and the Liberties seised: so concurrent Commissions granted. *Dal.* 10.

Justice of Peace cannot exercise a coercive power out of the County; nor punish offences (without some special Statute) out of it, or in any City or Corporation in it. *Dal.* 24. *Crom.* 8. 2. *num.* 30. 181. b. 189. 2. *Lam.* 47. *Crom.* 121. a. *num.* 20. 1, 2 *P. M.* 18.

He cannot bind over to answer an offence against a penal Law, except upon the Stat. of Labourers. *L.* 187.

He cannot have one before him out of the County where he is Justice into another County. *Dal.* 25. *Cro.* 120. b. *num.* 12.

Justice of Peace must not suffer the Kings disadvantage, if he can legally prevent it. *Lam.* 540.

Justices cannot acquit Felons by Proclamation; but if no prosecution, must keep them till the Just. of Goal-delivery come. *Lam.* 540.

One Justice rebukes another; neither he, nor his companions can commit him, for they are all by one authority.

Justice of Peace discharged cannot certifie a Record (in his hands) without a *Certiorari*, tho made Justice afterwards. *Crom.* 121. a. *num*, 15. and 132. a.

Justice of Peace cannot intermeddle in a Corporate Town,

Town, an affray being there at Seſſions time. Otherwiſe at the Aſſizes. *Crom.* 146. *Dal.* 156.

Juſtices of Peace cannot try a Maim by inſpection (upon an Inditement) as the Juſtices of *B. R.* may. *Lam.* 532.

Juſtices of Peace cannot inquire of (nor try) ſome Felonies, *viz.* where the Kings ſworn Servant conſpires his, (or the Lords, &c.) death, by 3 *H.* 7. but ſhall be tryed before the Steward, Treaſurer, or Controller by a Jury of the Check. Roll. *Dal.* 73.

So of embezelling, and razing a Record, they belong not to the Juſtice of Peace. 8 *H.* 6. *Dal.* 386.

So of Murders, or Homicides committed in the Kings Houſe, or within the Verge. *Dal.* 73. 33 *H.* 8. *cap.* 12.

So of embezelling the deceaſed Maſters Goods, the Felony begins by non-appearance in *B. R.* (upon proclamation of the Sheriff) and there (where the Record is) ſhall be tryed. 33 *H.* 6. *Dal.* 75. So Forgery made Felony by 5 *El. Ib.*

Juſtices of Peace cannot make trial of perſons indited of felony before Coroners, or Juſtice of Goal-delivery or *Oyer*, &c. *Vide Dal.* 76.

Labourers and Servants.

ONe Juſtice of Peace may cauſe all Artificers and other perſons meet to labour by his diſcretion, to work by the day in Hay and Corn-harveſt time, or impriſon the refuſers in the ſtocks for two days and one night. 5 *El. c.* 4. *Dal.* 119. *Lam.* 475.

The

The Conſtable refuſing to ſtock them, loſeth forty ſhillings. *Ib.*

One Juſtice of Peace under his hand and ſeal may licenſe Labourers in Hay and Harveſt time to go into another County to work. *Dal. ib.*

One Juſtice of Peace upon complaint, may compel meet perſons to be bound as Apprentices to husbandry, or any other art, *&c.* and for refuſal, commit them to ward, there to remain until they be bound to ſerve according to the ſtatute. *Dal. ib.* 5 *El. c.* 4.

One Juſtice of Peace may take order betwixt the Maſter and Apprentice; for want of conformity in the Maſter, bind him over to the Quarter Seſſions, where four Juſtices, one being of the Quorum, may diſcharge the Apprentice; and if fault be in the Apprentice, inflict due correction. *Dal.* 129. But if the firſt Juſtice find fault in the Apprentice. *Quære* if he may by 7 *Jac. c.* 4. ſend him to the Houſe of Correction, as an idle diſorderly perſon. *Dal.* 120. 121.

One Juſtice of Peace may allow of the cauſe of putting away of a ſervant, or of his departure within his term. *Dal.* 121. 5 *El. c.* 4.

But an Apprentice muſt be diſcharged by four Juſtices of Peace in open Seſſions. *Ibidem.*

One Juſtice of Peace may command vagrant perſons to priſon, if they will not ſerve. *Dalt.* 128.

One Juſtice of Peace may make his Warrant to attach a ſervant departing, to be at the Seſſions, or may ſend him to the Houſe of Correction. *Dal.* 121.

Two Juſtices of Peace, upon complaint that a ſervant departed before the end of his term (except 1. cauſe be allowed by one Juſtice of Peace; or 2. at the end of his term, without one quarters warning before two witneſſes; or 3. hath refuſed to ſerve for the wages appointed by proclamation, according to the ſtatute; or 4. hath promiſed to ſerve accordingly, and doth not) may examine the matter, and may commit without bail, ſuch faulty perſon till he be bound to

ſerve

ſerve and continue, and then he is to be diſcharged without ſee to the Goaler. *Dal.* 121. *Lam.* 330.

Two Juſtices of Peace may impriſon the maſter for ten days without bail, and the ſervant for twenty one days, that giveth or taketh greater wages than are allowed by ſtatute. *Dal.* 122. *Lam.* 330. and the maſter loſeth five pounds. 5 *El. c.* 4.

All retainer, promiſe, or payment of wages, or any other thing contrary to ſtatute, and every writing and bond for that purpoſe is void. 5 *El. cap.* 4. *Dalt.* 123.

Two Juſtices of Peace may impriſon for a year or leſs, any ſervant, workman, or labourer, that doth make aſſault, or affray upon his maſter, or any that hath the charge or over-ſight of them, or of the work, being proved by the confeſſion of the party, or oath of two. *Dal.* 123.

Or the Juſtices at the Seſſions may inflict other puniſhment.

One Juſtice may bind the offender to the good behaviour, and ſo to the next Seſſions. *Dalt.* 173. *Lam.* 330. & 473.

Two Juſtices may compel any woman of the age of twelve, and under forty being unmarried, to ſerve by the year, week, or day, for ſuch wages as they ſhall think meet, or commit her to ward till ſhe be bound. *Dal.* 123. *Lam.* 330., 331.

Retainer of a ſervant for leſs than a year, is not good at Common Law. *Fitz.* 168. b. *Co.* 42 b.

The retainer of any to ſerve in the arts of cloathing, Wool-weaver, Tucker, Fuller, Cloth-worker, Sheerman, Dier, Hoſier, Tailor, Shooe-maker, Tanner, Pewterer, Baker, Brewer, Glover, Cutler, Smith, Farrier, Currier, Sadler, Spurrier, Turner, Capper, Hat-maker, Felt-maker, Bowyer, Fletcher, Arrow-head-maker, Butcher, Cook, or Miller for leſs than a year, is void. 5 *El. c.* 4. *Lam.* 473. *Dal.* 123.

No perſon ſhall interrupt, deny, let, or diſturb any free

free or rough Maſon, Carpenter, Bricklayer, Plaiſterer, Joyner, Hard-hewer, Sawyer, Tiler, Pavier, Glaſier, Lime burner, Brick-maker, Tile-maker, Plumber, or Labourer born in the Realm, or any Denizon, to work in any of the ſaid crafts, in any City, Borough, or Town Corporate, with any that will retain him or them, tho they do not inhabit or be free there, upon pain of five pounds the one moiety to the King, the other to the Informer. *5 Ed. 6. c. 15.*

Any unmarried, or under thirty years and married, are compellable to ſerve in any of the ſaid arts, or to be impriſoned until they will ſerve, *5 El. c. 4.* upon requeſt of any perſon uſing the ſaid Trades, except the perſon be lawfully retained with ſome other, or have forty ſhillings *per annum* in lands, or forty pounds in goods, or ſome farm in tillage. *Lam.* 473. *Dal.* 122.

None retained in Husbandry to depart at his time into any other Limit, Town, or Pariſh, without Teſtimonial, on pain of twenty one days impriſonment, and to be whipped, if then he brings none; and receiver of ſuch loſeth five pounds. *Lamb.* 474. *Dal.* 130.

Labourers not working ſo many hours as they ought, loſe one penny an hour. *Lam.* 474. *5 El. c. 4. Dal.* 128.

Servant falling ſick, or *non potens corpore*, the maſter may not put him away, nor abate his wages. *Dalton* 87.

Any taking work by great, and departing unlawfully before the work be finiſhed, loſeth five pounds, and is to be impriſoned for a month. *Lam.* 474. *5 El. c. 4.*

Any taking an Apprentice contrary to order of Law, or exerciſing an art not being an Apprentice therein ſeven years, loſeth ten pounds. *5 Eliz. cap. 4. Lamb.* 475. *Crom.* 83. a.

Artificer, or Labourer, taking any work by the great, ſhall not depart (unleſs for want of wages, or the Kings ſervice, *&c.*) without licenſe, under pain of impriſonment

imprisonment for a month, and five pounds. 5 *El.* 4.

Servant departing into another Shire, is indicted for it in the County whence he departed; the Justices of peace may award a *Capias* to the Sheriff of that Shire whereunto he departed, returnable before themselves. 5 *El.* c. 4. *Lam.* 525. *Dal.* 128.

The sufficiency of the cause of the Masters putting away of his servant, or the servants departing from his Master within his term, must be proved at the Quarter Sessions. *Lam.* 610. 5 *El.* c. 4.

Houshold servant spoileth the goods of his deceased Master, and after proclamation in the Kings Bench maketh default of appearance there; it is felony, but not inquirable by the Justices of Peace. 33 *H.* 6. c. 1. *Lam.* 281, 548. *Dal.* 369. But if he wasteth the Goods, and returns to his Master; no felony. *Dal.* 368.

A man not able nor sufficient to keep a servant, doth retain a servant; such retainer is void. *Dal.* 129.

Retainer of a servant in husbandry without expressing any term, shall be for one year. *Crom.* 184. 2. *Dal.* 128. It is according to the statute, 5 *El.* c. 4.

If one retaineth a servant for forty days, and afterwards another retaineth him for a year; the first retainer is void. *Crom.* 184. 2. *Dal.* 129.

A Servant cannot be discharged by his Master without his own agreement, or for some cause allowed by a Justice of Peace. *Dal.* 128.

An Apprentice cannot be discharged by his Master but by writing, for an Apprentice cannot be but by writing. *Dal.* 129. *Crom.* 184 b. 185. b.

A Servant put away shall have his proportionable wages for the time he served, but it must be by the help of a Justice of Peace. *Dal.* 129.

So two Justices may give him a Testimonial: so when the Master is dead. 27 *El.* 11. *Lamb.* 331. *Quare Dalt.*

A servant of his own accord departing from his service, loseth all his wages. *Dal.* 129.

So

So departing before the end of his term without 4 quarters warning, or refuſing to ſerve for the wages limited, *&c.* he may be committed till he be bound to ſerve as he ought, upon complaint to two Juſtices, or Maior and two Aldermen. 5 *El.* 4. *Dal.* 129.

A ſervant refuſing to do his ſervice, it is a departure in Law, tho he ſtay ſtill with his Maſter. *Ib.*

Detaining of wages, or of meat and drink, is good cauſe of departure, but to be allowed by a Juſtice of Peace. *Ib. Crom.* 185. a.

A woman married after ſhe is retained, muſt ſerve out her time. *Crom.* 184. b. *Dal.* 127.

No ſervant in Husbandry, Artificer, or Victualler, nor any Labourer ſhall carry any buckler, dagger, or ſword, on pain to forfeit the ſame, but for defence of the Realm, or travelling with their Maſter, or about their maſters buſineſs. 12 R. 2. *cap.* 6. *Crom.* 185. b. 76. b.

Any two Juſtices of Peace may give their conſents with the Churchwardens and Overſeers, or the greater part of them, to bind as Apprentices the children of poor parents, till the age of the man-child of twenty four, and of the woman till twenty one. 39 *El.* 3. *Lam.* 331. 43 *El. c.* 2. *Dal.* 128.

Retainer according to the Statute, tho no wages be ſpoken of, is good, and ſhall have wages according to the proclamation. *Dal.* 129. 3. *H.* 6. *fo.* 23.

Retainer not being according to ſtatute, is void, except it be by Indenture. *Dal.* 129.

Retainer upon condition is good. *Dal.* 129.

Retainer without expreſſing in what office, is good *Dal.* 129. 21 *H.* 6. *fo.* 9.

Retainer for life is good. *Dal.* 129. 2 *H.* 4. *fo.* 15.

Retainer for a year to ſerve when he ſhall be required, is not good. *Dal.* 129.

By Retainer the ſervant is preſently in ſervice, tho he come not into his maſters ſervice indeed. *Dal.* 128. 41 *Ed.* 3. 20.

The

The Executor (the maſter dying) muſt pay wages to the ſervant hired according to the ſtatute, not otherwiſe, except it be by Indenture. *Dal.* 129.

Vide plus in Trade.

Larceny.

Larceny is the felonious and fraudulent taking another mans perſonal goods, removed from his body and perſon, without his will, to the end to ſteal them. *Lam.* 271. *P. C.* 129.

Perſonal Goods are

Wholly anothers Dead or Alive.
His own, yet alſo a property in another.

Dead Goods,

In their own nature chattels, as Money, Plate, Houſhold-ſtuff. *Lamb.* 273. Wool ſevered from the ſheeps backs, to take the skin and leave the body; the fleſh of tame, or wild, fowl, or beaſt. *Lamb.* 275. Goods of the Church, Pariſh, or of an unknown perſon. *Lam.* 276.

Once no Chattels, and made Chattels by the owner, as mowed Corn, mowed Hay, Wood felled, Apples gathered, &c. *Lam.* 276.

Alive.

Tame, as horſes, beaſts, ſheep, ſwine, pullen. *Lam.* 273, 274.

Wild, and made tame either by Art; or Reſtraint of Liberty.

By

By Art, as

A tame Deer, by common Law. *Lam.* 274.

By ſtatute, a Falcon, Tarcelet, Lanner, Lannerer loſt, without bringing it to the Sheriff to be proclaimed. *Lam.* 274.

By Reſtraint of their Liberty; as

Young Pigeons, young Herons, young Hawks out of their Neſts, Fiſh in a Trunk, Stew, or Pond. *Lam.* 274.

A mans own Goods,

Where he hath given a ſpecial property to another, as by bailment, pawning, &c. and felonioufly taketh it again: *Lam.* 277. *Dal.* 393.

Where one coming lawfully to the poſſeſſion, by lending altereth the property, as by melting of borrowed Plate, and the lender taketh the mettal felonioufly. *Lam.* 277. *Dal.* 373.

In what Goods Larceny cannot be committed.

In Goods of Profit; and Pleaſure.

Goods of Profit:

As where is an owner; and they are either Real, or Perſonal.

No owner; as Treaſure-trove, wrecked, ſtrayed. *Lam.* 276.

Real

Real are,

Distinct from the free-hold; as Charter of Land, or a Ward. *Lam.* 275.

Annexed to the free-hold; as Apples on the tree, a tree growing, Lead from a House, or from a Church. *Lam.* 276.

Personal; as wild things using their wildness; as pigeons flying, hawks not reclaimed; fishes in the river. *Lam.* 274. Pheasants, partridges, hares, conies, herons, swans, or deer that are abroad. *Lam.* 275. *Dal.* 270.

Goods of pleasure; as dogs, apes, parrots, singing birds; a diamond, ruby, or other stone not set in gold or silver. *Lamb.* 275. *Dal.* 372.

Larceny is either Grand Larceny; or Petty Larceny.

Grand Larceny is, where the thing stollen is above the value of twelve pence, and is punishable by death. *Dal.* 365.

Pety Larceny, if the thing stollen exceed not twelve pence; and is punishable by the discretion of the Justices, before whom he is arraigned, and forfeiteth his Goods. *P. R.* 129. *Dal.* 366.

Divers pety Larcenies put in one Indictment, and above the value of twelve pence, are punishable by death. *P. R.* 129. *Lam.* 273. *Dal.* 366.

Divers found guilty of one Larceny above twelve pence, they all must die for it, for that felony is several in Law, even as those others were severed in act. *Lam.* 273. *Dal.* 366.

What Acts do amount to Larceny.

To carry away the Plate delivered to me in a Tavern to drink in. *Lam.* 278. *Cro.* 35. b. *nu.* 4. *Dal.* 367.

To carry thoſe things one is hired to carry, to another place than he was hired, and there felonioufly to convert them to his own uſe. *Lam.* 279. *Dal.* 367. *Cro.* 36. a. *nu.* 10.

A ſervant not being an Apprentice to go away with the goods of his Maſter above forty ſhillings, which were in his cuſtody. *Lamb.* 279, 280. *Dal.* 368. 5 *El.* 10. Proſecution in a year.

Carrier to convey away, or convert to his own uſe the Goods after they are brought to the place appointed by the owner. *Dal.* 367. *Lam.* 279.

Or break them up at another place, and convert them.

But to ſell or give away whole as he received them, no felony. *Stamf.* 25. a. *Cro.* 30. a.

So of a Horſe delivered as lent, and he rides away with him, *&c. Ib.*

He to whom the Key of ones Chamber-door is delivered, openeth the door, and taketh away the goods. *Lam.* 279. *Dal.* 369.

A ſervant receiving twenty pounds in Gold of his Maſter to keep, changeth it into ſilver, and runneth away with it; for gold and ſilver are both of one nature, *viz.* money. *Dal* 368. *Crom.* 50. 2. *Lam.* 280.

A Gueſt is harboured, who carrieth away his ſheets out of his Chamber, with purpoſe to ſteal them and is taken in the houſe. *Dal.* 369. *Crom.* 35. a. *nu.* 2. *Lam.* 381.

One ſervant runneth away with the Goods of his maſter delivered unto him by his fellow-ſervant, to the value of forty ſhillings, or converteth them to his own uſe. *Dal.* 368. *Crom.* 50 2. *Lam.* 281.

A ſervant taking a purſe of money, hid by his Maſter in a Corn-mow in his barn, or part of the money out of it. *Dal.* 369.

A Carrier imbezels part of the goods committed to his charge. *Dal.* 367. *Cro.* 36. a. *nu.* 11.

A ſervant receiveth of his Maſter a piece of cloth to keep,

keep, and he maketh a garment thereof, and goeth away therewith. *Cro.* 50. a. *Dal.* 369.

A ſervant taketh away or ſpoileth the goods of his deceaſed maſter; upon default of appearance in the Kings Bench after proclamation, it is felony. *Dalt.* 369. 33 *H.* 6. *c.* 1. *Lam.* 281.

Taking an horſe felonioufly, and apprehended before he get the horſe out of the cloſe. *Lam.* 282. *Dal.* 369.

The husband ſhall not be puniſhed for theft done by his wife, he not knowing thereof; or if after knowledge he preſently forſake her and his houſe. *Lamb.* 281. *Dal.* 375.

Apprentice or ſervant under eighteen years old, embezelling their maſters goods not delivered to them, or committed to their charge; it is felony, if above twelve pence value; elſe Pety Larceny; if under.

Taking a Sheep in paſture or fold, and found killing it, and flies, felony; tho the Sheep not carried away. *Dal.* 370.

Acts not amounting to Larceny.

One having goods bailed unto him, converteth them all to his own uſe. *Cro.* 36. a. *nu.* 11. *Dal.* 367.

A Carrier conveyeth the goods to another place than he was hired, and there converteth them to his own uſe. *Lam.* 278. *Cro.* 36. a. *nu.* 11.

An obligation, or wares delivered to a ſervant, who receiveth the money, or ſelleth the wares, and runneth away with the money *Dal.* 368. *Cro.* 35. b. *nu.* 50. a *Lam.* 280.

A wife ſtealeth goods in the company of her husband, or by his command. *Quare* if it be without his compulſion *Lam.* 282. *Dal.* 374.

A Wife ſtealeth the goods of her Husband, and

delivereth them to another that knoweth thereof; it is Larceny in neither. *Lam.* 282. *Dal.* 375.

Goods ſtole by an Infant under twelve, a Lunatick during his Lunacy; a mad man, and deaf and dumb. *Lam.* 282. *Vide Dal.* 375.

Riding away with a lent horſe. *Dal.* 367.

A Clothier delivereth wool or yarn to his work-folks, who embezel or ſell part thereof. *Dal.* 367.

Goods delivered to another to keep, and he conſumeth them, or converteth them to his own uſe. *Dal.* 367. *Lam.* 278.

So money or goods delivered to one to deliver to a third perſon, and the firſt receiver flyeth away with them, or converts them to his own uſe. *Dal.* 367.

A ſervant hath a horſe delivered by his maſter to ride to market, or money to go to a fair, to buy cattel or other; or to pay to another man, and the ſervant goeth away therewith: *Quære* if it be felony by ſtatute. *Dal.* 368.

A receiver receiveth his maſters rents, and goeth away with them. *Dal.* 369. *Cro.* 50. 2.

Leather.

Butcher that gaſheth, ſlaughtereth, or cutteth the hide of the ox, ſteer, bull, or cow, whereby it is impaired, loſeth twenty pence; or that watereth any hide except in *June*, *July*, or *Auguſt*, or putteth to ſale any putrified or rotten hide, loſeth for every hide three ſhillings four pence. 1 *Jac.* 22. *Lam.* 462.

Butcher uſing the ſaid craft and alſo the myſtery of tanner, loſeth every day ſix ſhillings eight pence. *Ib.*

Tanner uſing alſo the myſtery of a ſhooemaker, currier, butcher, or any artificer uſing the cutting or working of Leather, loſeth the hides and ſkins tanned. *Ib.*

Every

Every perſon, other than ſuch as had a Tan-houſe 29 *Martii* 1603, and did then occupy tanning of Leather, or hath been taught as an Apprentice or hired ſervant ſeven years in that myſtery, or hath been wife or ſon of a tanner brought up in this myſtery four years, or the ſon or daughter of a tanner, or ſuch as hath married the wife or daughter of a tanner, having left to them his tan-houſe and fats, that tanneth any Leather, or taketh any profit by tanning, loſeth all the Leather tanned by him. *Lam.* 462, 463. 1 *Jac.* 22.

None may buy, contract for, or beſpeak any rough hides, or calves-skins, but only tanners, or tawers of Leather, except ſalt hides for the neceſſary uſe of ſhips; on pain of ſix ſhillings eight pence for every hide. 1 *Jac.* 22. *Lam.* 463.

None ſhall foreſtal any hides coming to fair, or market (except of ſuch as kill for the proviſion of their houſe) on pain of ſix ſhillings eight pence for every hide. 1 *Jac.* 22.

None may buy tanned Leather, nor wrought, but ſuch as will convert the ſame into made wares, (except necks, and ſhreds of ſadlers and girdlers) upon loſs of all the leather. *Lam.* 463 1 *Jac. c.* 22.

A Currier bought hides, and curried them with oil, and tallow, &c. and ſhaved and died them, and ſold them to a Shooemaker, this is within the ſtatutes, 5 6 *Ed.* 6. 15. 27 *El.* 16. 5 *El.* 8. For a Currier may not buy and ſell by whole ſale. *M.* 16 *Car. Cro.* 425.

Tanner ſuffering any hide to lye in the tan-limes, till the ſame be over-limed; or that putteth any hides into the tan-fats before the lime be perfectly wrought out of them; or uſeth any thing in tanning but only Aſh-bark, Oak bark, Tapweart, Malt, Meal, Lime, Culver-dung, or Hen-dung, or hath ſuffered his leather to be frozen, or to be parched with the fire or ſummer Sun, or hath tanned any rotten hides; or hath not ſuffered the hides for outward ſole leather to lye in the woozes twelve months, and for the upper ſole-

leather nine months; or hath negligently wrought the hides in the woozes; or hath not renewed their woozes as oft as was requiſite; or hath put to ſale any tanned leather not wrought according to the ſtatute, ſhall loſe the hides, or value of them. 1 *Jacob. cap.* 22. *Lamb.* 463, 464.

Tanner that raiſeth with any mixtures any hides to be converted to backs, bend leather, clouting-leather, or any other ſole-leather, except the ſame be fit and ſufficient for that uſe, loſeth the hides. 1 *Jacob. cap.* 22. *Lam.* 464.

Any that putteth to ſale, exchangeth, or otherwiſe parteth with any tanned leather red, and unwrought, being in open fair and market, unleſs it be ſearched and ſealed in ſome open fair or market; or putteth to ſale any leather not ſearched and ſealed according to the ſtatute; loſeth for every hide, or piece of leather, ſix ſhillings eight pence; and alſo for every twelve calves skins, or ſheeps skins, three ſhillings four pence; and alſo the hides and skins, or their value. 1 *Jac. cap* 22. *Lamb.* 464.

Tanner putting to ſale any leather inſufficient, or not throughly wrought and tanned, or not well and throughly dryed, and the ſame ſo found by the tryers appointed, 1 *Jac. cap.* 22. loſeth ſo much as is inſufficient. *Lam.* 464.

He that ſetteth his fats in tan-hills, or other places, where the woozes, or leather to be tanned in the ſame, may take any unkind heats, or hath put any leather into warm woozes, or hath tanned with warm, or hot woozes; forfeiteth ten pounds, and is to ſtand in the Pillory three market days. 1 *Jac. c.* 22. *Lam.* 464.

Felling Oaks meet to be barked, where bark is worth two ſhillings a load, above the charges of barking and pilling (timber for neceſſary buildings, and reparations of ſhips, houſes, or mills excepted) but between the firſt of *April*, and laſt of *June*, loſeth every tree, or double the value 1 *Jac. c.* 22. *Lamb.* 464, 465.

Currier

Currier that currieth any Leather but in his own houſe ſituate in a corporate or market town; or hath curried any leather not well tanned, or not throughly dried after his wet ſeaſon, or hath uſed in ſuch wet ſeaſon any deceitful means to corrupt the ſame, or hath curried any outward ſole-leather with any other ſtuff than hard tallow; or leſs of that than the leather will receive; or inner ſole-leather, or upper leather, but with good ſtuff being freſh and not ſalt; or hath not liquored them throughly; or hath ſcalded or ſhaven too thin; or gaſht in ſhaving, or otherwiſe, or not wrought ſufficiently any leather; loſeth ſix ſhillings eight pence, and the value of every skin marred; except gaſhing in ſhaving, and for ſuch gaſhing double as much as the leather is impaired. 1 *Jac.* c. 22. *Lam.* 465.

Currier, that during the time that he uſeth currying, uſeth the feat of a Tanner, Cordwainer, Shooemaker, Butcher, or other Artificer uſing cutting of leather, loſeth ſix ſhillings eight pence each hide. *Ib.*

Currier refuſing to curry within eight days in ſummer, and ſixteen days in winter, perfectly any leather brought by any cutter of leather, or his ſervant, bringing with him good ſtuff for perfect liquoring of the ſame, loſeth ten ſhillings for every hide.

Shooemaker that maketh any Boots, Shooes, Buskins, Startups, Slippers, or Pantofles, or any part of them, of Engliſh leather wet curried (other than Deer, Calves, or Goat skins dreſſed like Spaniſh leather) but of leather well tanned and curried; or well tanned only, and well ſewed with thred well twiſted, waxed, and roſined, with the ſtitches hard drawn with hand-leathers, without mixing neat and calves leather in the over-leather thereof; or hath put into any ſhooes, boots, &c. any leather made of ſheep-skins, bull-hide, or horſe-hide; or into the upper leather of any ſhooes, ſlippers, or pantofles, or into the nether part of boots (the inner part of the ſhooes only excepted) any part of the womb, ſhank, neck, flank, pole, or cheek of any

hide; or into the outer ſole other than the beſt of the ox or ſteer hide; or into the inner ſole other than the neck, womb, pole, or cheek; or in treſwels of the double-ſoled ſhooes other than the flanks of any the ſaid hides; or hath put to ſale any year between the laſt of *September*, and the twentieth of *April*, any ſhooes, boots, &c meet for any perſon above four years old, wherein hath been any dry Engliſh leather, other than calves or goats skins dreſſed like Spaniſh leather; or hath ſhewed for ſale any of his wares upon Sunday, loſeth three ſhillings four pence for every pair, and the juſt value. 1 *Jac. cap.* 22. *Lam.* 465, 466.

Every Lord of Fair or Market, that doth not appoint and ſwear yearly two or three honeſt and skillful men, to be ſearchers and ſealers of leather there, and ſix honeſt and expert men to try the ſame leather; loſeth forty pounds. *Lam.* 466. Such triers as do not their duties therein without delay, loſe five pounds for every default. *Lam.* 467.

Searcher or ſealer ſo appointed, refuſing with ſpeed to ſeal good leather, or allowing inſufficient leather; loſeth forty ſhillings; or receiving any bribe, or exacting any undue fee for execution of his office; loſeth for every offence twenty pounds; or refuſing to execute the ſaid office, being duly elected; loſeth ten pounds. *Lam.* 467.

He that will not ſuffer a ſearcher to enter into any place to ſearch tanned leather, or wrought wares, or to ſeiſe or carry away that which is inſufficient; or hath put away any tanned leather red, and unwrought, without regiſtring the ſame, and the price thereof; loſeth the value of the leather. *Lam.* 467. 1 *Jacob. cap.* 22.

Tranſportation of hides, or skins out of *England*, or beyond-ſea, otherwiſe than is directed, is prohibited by 14 *Car.* 2. *c.* 7.

Every one ſo tranſporting hides, &c. except calves skin, and ſheep-skin dreſt in the Wool, forfeits five hundred

hundred pounds, and is diſabled to trade in leather. *Ibid.*

But boots, ſhooes, and ſlippers may be tranſported. *Ibid.*

Juſtices of Peace, Maiors, *&c.* may (ſearch by land and water) for all raw hides and leather of any ſort, intended to be tranſported, or ſent into *Scotland*, and ſeiſe them. *Ib.*

The Statute 5 *El.* 8. is repealed, and all acts thereby repealed.

Stat. 5, 6 *Ed.* 6. 15. of ingroſſing leather, is in force, the Statute (1 *Ma.* 8.) which repealed it, being repealed by 1 *Jac.* 22. but the Juſtices of Peace have no power to inquire. *Stat.* 27 *El.* is in force. *Vide* 4 *Jac.* 6.

Leets.

Steward of a Leet cannot grant ſurety of the Peace, unleſs it be by preſcription; but he may commit him to ward that ſhall make an affray in his preſence, whilſt he is in execution of his office; or bind him to the peace, or to his good behaviour. *Lam.* 14. *Dal.* 1.

He may alſo take preſentment of an offence againſt the Peace. *Ibid.*

In every Leet, or Market, there ought to be a Pillory and Tumbrel, and for want thereof the Lord of the Leet, or Market, ſhall make a fine to the King. *Dal.* 152. *Com.* 149.

Erecting a Dove-cote by a Free-hold, and ſtoring it with pigeons, no nuſance inquirable in a Leet. 2 *Crom.* 492.

So a Gate left open *ad nocumentum inhabitantium*, being but private injury, not inquirable. 3 *Cro.* 414.

Lsnt.

Lent. Vide *Fiſh-days.*

Libellers.

A man finding a Libel againſt a private man, muſt preſently burn it, or deliver it to ſome Magiſtrate. *Dal.* 294. 5 *Co.* 125. b.

If againſt a Magiſtrate or publick perſon, to deliver it to ſome Magiſtrate, that by examination the Author may be found out. *Ibid.*

Libellers (it ſeemeth) may be bound to their good behaviour, as diſturbers of the Peace, whether they be contrivers, procurers, or publiſhers of the Libels; for ſuch libelling and defamation tendeth to the raiſing of quarrels and effuſion of blood, and ſpecial occaſions to the breach of the Peace. *Dal.* 194. 9 *Co.* 59. b.

So if one that hath heard it read, repeat any part, or read it to other knowing. *Ib.*

Libelling is by ſcandalous Writings, by Book, Ballad, Epigram, or Rhime. 2. By ſcandalous words; as Scoffs, Jeſts, Taunts, or Songs. 3. By hanging up of Pictures, or Signs of Reproach, near the place where the party traduced doth converſe moſt; as Gallows, Cucking-ſtool, Pillory, Horns, or ſuch like. *Dal.* 294. 5 *Cook. fol.* 125.

So by a ſcandalous Letter ſubſcribed by his name, being full of ſlanderous matter. 12 *Co.* 35.

And it is not material, whether the Libel be true or falſe; the party ſcandalized, living, or dead; of good, or ill name. *Ib.*

Liberty

Liberty and Franchiſe

Are places which have return of Writs, and not ſuch as are Counties of themſelves; as *London*, &c. nor Towns, which have by grant of the King, Juſt. of Peace, ſo that no other Juſtice do intermeddle. *Cro.* 8. a. *nu.* 30. *Dal.* 23. 2, 3 *P. M. c.* 18.

Juſtice of Peace may execute his authority within any Liberty not a County within it ſelf; but the Liberty may have their remedy againſt him. *Lam.* 47, 48. *Dal.* 23. *Crom.* 8. a. *nu.* 30, 181. b. 189. a.

Franchiſes by Charter time out of mind, muſt have aid of ſome Record within time of memory; as allowance in Eire, or (more than Eire) by the Juſtices of *B. R.* or Common Pleas, or Barons, &c. confirmed by Charter of Record. 9 *Co.* 28. a.

But Franchiſes by preſcription need not matter of Record to ſupport them. *Ib.*

Franchiſes are ſometimes put into the Kings hands; ſometimes ſeiſed in his right till fine made; ſometimes fore-judged. *Ib.*

Seiſed, for default of anſwer; for not being at the coſt to ſue out a Commiſſion of Goal-delivery, for priſoners whom the Goaler detains. 9 *Co.* 96. b. So detaining priſoners after the fees paid.

Liberty ſeiſed for grand Riots in Cities, and Corporations fined; as in *London* it happened in the Caſe of the Riot where Doctor *Lamb* was killed, the City was upon information in *B. R.* fined a thouſand marks. *P.* 8. *Car.* 1.

A Franchiſe within a Hundred chargeable for a Robbery with the Hundred. 27 *El.* 13.

Licences.

Licences.

The Biſhop, Parſon, Curate, Vicar, may grant Licenſe to a ſick perſon to eat fleſh during the ſickneſs. 5 *El.* 5. *Vide* Fiſh-days.

Two Juſtices of the Peace may licenſe poor diſeaſed perſons to travel to the Baths for remedy of their grief, ſo as they be provided for relief of their travel, and beg not. 39 *El. c.* 4. *Dal.* 208. *Lam.* 332. 1 *Jacob. cap.* 25.

Juſtice of Peace dwelling near where any perſon having ſuffered ſhipwrack ſhall land, may and ought to make a teſtimonial under his hand to ſuch perſons of the landing, *&c.* and thereby to licenſe them to paſs the next direct way to their place of birth or dwelling, and limit them a convenient time for their paſſage. *Dal.* 209. *Lamb.* 303. 39 *Eliz. cap.* 4. 39. *El. c.* 17. 1 *Jac. c.* 25.

No Juſtice, or Juſtices of Peace (as it ſeems) can in any caſe licence any poor man to wander, or beg at all. *Dal.* 210. *Lam.* 303. 39 *El.* 4. *c.* 17.

Licenſe to do a thing *malum in ſe*, is not good; as for a Bailiff of a Mannor to licence cutting down trees. 2 *Cro.* 377.

The wife or ſervant cannot give licence to any to enter the husbands or maſters houſe. 3 *Crompt.* 246, 876.

Convicted for abuſing of a Licenſe of tranſportation of victual, ſhall be committed for a year without bail or mainpriſe. *Lam.* 349. 1 & 2 *P. & M. c.* 5.

Licences for Badgers, Drovers, *&c.* are to be granted in open Quarter Seſſions by three Juſtices of Peace, whereof one of the Quorum, and ſhall not endure above a year, unleſs the ſame be yearly renewed. 5 & 6 *Ed.* 6. *c.* 14. 5 *El. c.* 12. *Lamb.* 610. *Vide* Badgers, Burial Labourers, Wine.

Linen

Linnen Cloth.

He that cauſeth to be uſed any racking, beating, or caſting any deceitful liquor, or other means on any kind of linnen cloth, whereby it becometh deceitful, or the worſe for uſe, forfeiteth ſuch cloth, and is to have impriſonment for a month at the leaſt, and to be fined according to the Juſtices diſcretion. 1 *Elizab.* 11. *Cro.* 90. 2.

Log-wood, alias *Block-wood.*

Suſpected to have offended againſt the ſtatute for Log-wood, upon information to a Juſtice of Peace, the ſuſpect, or his ſervant, or workman may be called by warrant, and examined by oath, or otherwiſe, to diſcloſe the offence; and the offence being diſcovered, the offender and the examinates ſhall be bound over to the next Goal delivery or Quarter Seſſions, and there be judged to forfeit twenty pounds, and Pillory one or more market days; or upon refuſal to be bound, to be committed to the Goal till he will be bound. 39 *El. c.* 13. *Lam* 613. *Dal.* 64.

Any two Juſtices of the Peace, where any Log-wood ſhall be found, in whoſe hands ſoever it ſhall be; may cauſe the ſame to be burned. 23 *Eliz. cap.* 9. *Dal. it. Cro.* 198. b.

London.

London.

London is Ancient Demene.

Sale of ſtollen goods in *London*, doth not alter the property.

The High-ways and Streets about *London* being much impaired by exceſſive carriages, it was ordered, that three Oxen ſhall be taken for two horſes, and four Oxen for three Horſes; and ſo after that rate.

So afterwards ordered, that all Waggons and Waggoners be prohibited to travel to *London* with four Wheels in their Waggons, and every offender conven-ted before the next Juſtice of Peace.

No new building ſhall be erected for habitation within three miles of *London*, nor any building divided in ſeveral habitations, except fit for the dwelling of one aſſeſſed formerly to the Subſidy in five pounds goods, or three pounds lands, or allowed by two Juſtices to be a Subſidy man. 35 *El.* 6.

And the two next Juſtices have power to determine the ſufficiency of ſuch Houſes and Inhabitants. *Ib.*

Several Orders have been made for prohibiting Buildings begun in *Lincolns-Inn-Fields*, 11 *Jac.* So for that part near *Clements-Inn*, and *New-Inn*. 8 *Car.* So in 40 *El.*

Long-bows.

Any above the age of twenty four years, ſhooting at ſtanding pricks under eleven ſcore yards with any prick, ſhaft or flight, loſeth ſix ſhillings eight pence. 33 *H.* 8. 9 *Lam.* 481.

Main.

Maim.

Vide Soldiers, for maimed Soldiers and Mariners.

He that hath maimed another of any member, whereby he is leſs able to fight; as if a bone be taken out of his head; or a bone broken in any part of the body, or foot, or hand, or finger, or joynt; or if a foot or any member be cut; if a man be gelt; or by ſome wound the ſinews be made ſhrink, or other member; or the fingers made crooked; or if any eye be put out, or the fore-teeth broken, or beat out; or any other thing be hurt in a mans body, by means whereof he is made the leſs fit to defend himſelf, or offend his enemy; he and his acceſſaries ſhall be grievouſly fined. *Lam.* 429. *Terms of Law.*

Juſtices of Peace cannot upon an Indictment of Maim, make the tryal by their own view and inſpection, as the Juſtices of the Kings Bench may do. *Lam.* 532.

If Juſtices of Peace ſtand in doubt whether the hurt be maim or not, they may uſe the help and opinion of ſome skillful Chirurgeon to conſider thereof. *Terms of Law.*

Inditement of Maim muſt be *felonice mahemavit. Cro.* 101. 2. *nu.* 3. 3 *Inſt.* 18.

For anciently the offender was to loſe the ſame part, it being felony at Common Law. 3 *Inſt.* 118. and putting out eyes, cutting off the noſe is ſo now. 22, 23 *Car.* 2.

Mainprise. Vide *Bailment.*

Maintainers and Embracers

Of a Jury enquiring of a Riot, forfeit twenty pounds, and to be committed to prison, and to remain according to the discretion of the Justices. 19 *H.*7. *cap.* 13.

The Justices which shall sit upon the Inquisition of Riots with the Sheriff, or Under-Sheriff, ought to certifie the names of the maintainers and embracers of a Jury, with their misdemeanors which they know, by which the truth of the said Riot is not found, upon pain of twenty pounds for every one that hath not a reasonable excuse. 19 *H.*7.c.13. *Cro.* 199.b.

Maintainers of quarrel and embracers of Jurors are to be imprisoned, and bound to the good behaviour. 33 *H.*8.*c.*10. 37 *H.*8.*c.*7. *Lam* 440.

Maintenance is, where any man giveth or delivereth to another, that is plaintiff or defendant in any action, any thing to maintain his plea; or else maketh extreme labour for him where he hath nothing to do therewith. *Terms of the Law.*

Solliciting the Jury, and shewing them Precedents where great damages were given in the like cause. 3 *Cro.* 736.

So when persons (no Tenants) having no interest in the title, stir up Tenants to claim Tenant right against the Lord. *Hob.* 92.

But it is no Maintenance to joyn by common purse (in case of trial against one of them) to demand their Tenant-right, or Common against their Lord. *Hob.* 91, 92.

Embrace

Embracer is he, that when a matter is in trial between party and party, cometh to the bar with one of the parties, having received ſome reward ſo to do, and ſpeaketh in the caſe, privily laboureth the Jury, or ſtandeth there to ſurvey or over-look them, thereby to put them in fear and doubt of the matter; but men learned in the Law may ſpeak in the caſe of their Clients. *Terms of Law.*

Maior, or Magiſtrate,

Being the next may commit until Seſſions abuſers of Cuſtom Officers. 14 *Car.* 2. 11.

May commit any Nonconformiſt preaching. 14 *Car.* 2, 14.

May bind over Quakers; or refuſers of the Oath in order to conviction of Recuſancy.

May commit neglecters to ſend carriages for the Kings uſe.

May grant a Warrant to ſearch for uncuſtomed goods. 11 *Car.* 2. 19.

May commit unlicenſed Ale-houſe-keepers, and levy the penalties. 3 *Car.* 1. 3.

May put in execution 3 *Car.* 1. for Sabbath-breakers.

May puniſh profane Swearers and Curſers. 21 *Jac.* 20.

May puniſh armed Riders. 2 *Ed.* 3. 3.

May ſeiſe and burn Logwood. 23 *El.* 9.

May aſſeſs the prices of Ale and Beer.

May commit unlawful Gameſters. 33 *H.* 8. 9.

May puniſh thoſe that have falſe weights. 11 *Henr.* 4.

May puniſh oppoſers of Chimney-money Collectors. *Car.* 2. 3.

May determine about Servants and Apprentices. 5 *El.* 4.

May inquire of offences againſt 1 *El.* 2.

May tax for relief of infected perſons. 1 *Jac.* 31.

May aſſeſs the Aſſiſe of Talewood, Billet, and Faggot. 43 *El.* 14.

May puniſh Robbers of Orchards. 43 *El.* 7.

May inquire of offenders about Arrow heads. 7 *H.* 4. 7.

May inquire of offending Artificers and Victuallers. 2 *Ed.* 6. 15.

May ſet the price of Beer and Veſſels. 8 *El.* 9. 23 *H.* 8. 4.

May ſearch and gauge Veſſels for Salmon, Herrings, and Eels. 11 *H.* 7. 23. 22 *Ed.* 4. 2.

May arreſt Soldiers departing without licenſe. 18 *H.* 6. 19.

May determine matters concerning Leather.

Maiors and Head-Officers have the ſame power (being Juſtices of Peace) within their limits, as is limited to Juſtices, concerning the Poor, &c. *Dal.* 156.

Malt.

If any Bailiff or Conſtable of any Borough, or other Town, ſhall find any Malt made contrary to the Statute. 2, 3 *E.* 6. 16. & 27 *El.* 14. then with the advice of any Juſtice of Peace within the Shire, he ſhall cauſe the ſame to be ſold to ſuch perſons, and at ſuch reaſonable prices under the common price of the Market as to their diſcretion ſhall ſeem convenient. *Lam.* 201. *Dal.* 137. 21 *Jac. c.* 28.

Any two Juſtices of the Peace may duly convict by two witneſſes, or by the parties confeſſion, any per-

ſon that ſhall diſobey the reſtraint of malting made in open Quarter Seſſions; and ſhall commit him to priſon without bail or mainpriſe for three days, until he become bound in forty pound to perform ſuch reſtraint. 39 *El. c.* 16. *Lam.* 332, 202. *Dal.* 138.

The Juſtices of Peace, or the greater part of them, may in open Quarter Seſſions reſtrain the converting of barley into malt. 39 *Eliz. cap.* 16. *Lamb.* 613. *Dalt.* 138.

Malt muſt be three weeks in the fat, on the floor ſteeping and drying, except in *June*, *July*, *Auguſt*, and then ſeventeen days, or loſe twenty pence for every quarter. *Lam.* 451. *Dal.* 137.

No inſufficient malt mingled with good malt, muſt be put to ſale. 2 & 3 *Ed.* 6. *c.* 16. & 27 *El. c.* 4. *Lam.* 452. *Dal.* 137.

No malt ſhall be put to ſale that is inſufficiently trodden, and out of which for every quarter hath not been fanned one peck of duſt. *Ib.*

Manſlaughter. Vide *Homicide.*

Mariner.

Mariner coming from beyond the Seas, or a Seafaring man having ſuffered ſhipwrack, and in want, may be licenſed by the next Juſtice of Peace to his landing, to ask relief in his journey homewards. 39 *El.* 4. *Lam.* 363. *Dal.* 209, 227. 1 *Jac. c.* 28.

If he fall ſick by the way, he ſhall not incur the penalty. *Ib.*

No Fiſher-man to be taken for a Mariner by the Kings Commiſſion, unleſs choſen by the two next

Juſtices to the place where he is to be taken. 5 *El.* 5. *Lam.* 359. *Dal.* 139.

Mariner departing from his Captain without licenſe, or wandring idly without, or with a forged licenſe, knowing thereof, is a felon. 39 *El.* 17. *Lam.* 227. 43 *El.* 3. *Dal.* 208.

Any poor Mariner or Soldier coming from beyond the Seas, that ſhall repair to his place of birth, &c. and cannot there get work, two Juſtices of the Peace next adjoyning may take order to ſet him to work, and for want of work, tax the whole Hundred for his relief, till ſufficient work may be had. 39 *El.* c. 17. *Lam.* 359. *Dal.* 238. 21 *Jac.* 28.

Mariner forging a Teſtimonial, or carrying the ſame, knowing it to be forged, it is felony. *Lam.* 228. *Dal.* 289. 39 *El.* c. 4. & c. 17. 1 *Jac.* c. 7.

Mariner landing, and not having a Teſtimonial under the hand of ſome Juſtice of Peace near the place of his landing, ſetting down 1. The time and place of his landing. 2. The place to which he ſhould paſs. 3. And the time for his travel. Or exceeding that time fourteen days; it is felony. 39 *El.* c. 17. *Dal.* 391. *Lam.* 303.

But if he have ſuch a Teſtimonial, and purſue the ſame, he may ask and take ſuch neceſſary relief as ſhall be given him. 39 *El. cap.* 17. *Lam.* 303.

Vide *Felony by Statute, Soldiers.*

Market overt.

High-ways from one Market to another ſhall have no ditches or buſhes, where any may lurk to do miſchief. *Vide* High-ways.

He that is owner, &c. of any Fair or Market where horſes, geldings, mares, or foles are to be ſold, and doth

doth not yearly assign one open place where the said horses, *&c.* shall be sold, and one to take Toll, who shall continue there from ten in the morning until sunset, forfeiteth forty shillings for every day. 2 & 3 *P. & M. c.* 7. *Cro.* 91. 2. *Lam.* 471. 31 *El* 12.

To alter the property of any strangers rights, in horses, and all other goods, they are to be sold in such a place or shop as is commonly used for selling goods of the same kind. *Dal.* 139.

Sale of Plate in a Goldsmiths shop must be publick, not in an inner shop, or behind a curtain. 5 *Co.* 83.

Sale in Fair or Market doth not take away the owners property, the buyer knowing that it was anothers. *Dal.* 139. 3 *Co.* 78.

Vide *Fairs and Markets, Weights,* &c. *Horses.*

Marriage.

If any married person marrieth another, the former wife or husband being alive, except the husband or wife have been beyond Sea seven years together; or have been absent within the Kings Dominions seven years together, the one not knowing the other to be alive; or was at such marriage lawfully divorced; or the former marriage by sentence Ecclesiastic declared to be void; or was had within three years of consent; it is felony, 1 *Jac.* 11. *Lam.* 421. *Dal* 388. *Cro.* 52. 2. without corruption of blood, loss of dower, or disinheriting any heir.

All marriages made since 1642 before any Justice of Peace confirmed and made good, and issues upon Bastards, or otherwise touching the same to be tryed by Juries. 12 *Car.* 2. *c.* 33.

Maſons.

The cauſing of Maſons to congregate themſelves in Chapters, is felony. *Lamb.* 227. 3 *H.* 6. *c.* 1.

Maſs.

To ſing Maſs forfeiteth two hundred marks, and 1 years impriſonment. To hear it, forfeiteth an hundred marks, and like impriſonment. 23 *Eliz. cap.* 1. *Lamb.* 413.

For the diſcovery of any who hath been at Maſs, *Vide* Jeſuits.

Maſter. Vide *Servant and Labourer.*

Meaſure. Vide *Weight.*

Meſſages falſe.

Two Juſtices of the Peace, one being of the *Quorum*, may (as it ſeemeth) bind over to the next Quarter Seſſions any ſuſpected of getting money, or other thing, by falſe tokens, or counterfeited letters; or may impriſon ſuch, or bail them to the next Quarter Seſſions. *Dal.* 33. *H.* 8. *c.* 1.

Vide plus in Cozenage.

Milch kine.

Milch-kine. Vide *Calves.*

Minſtrels. Vide *Rogues.*

Miſpriſion,

In a large ſenſe is taken for a great offence, or miſdemeanor, or in a larger, for a miſtake as by a Clark, &c. but is properly, where one knows, that another hath committed Treaſon, or Felony, but was not conſenting thereto, and will not diſcover the offender to the King, or his Council, or to ſome Magiſtrate, but conceals the offence. *Dal.* 330, 334. *Stamf.* 37. *Terms of Law.* 335. 1 *E.* 6. 131. Fine and Impriſonment. 3 *Inſt.* 134.

A Purveyor for Salt-peter ſelling or making benefit of the powder; it is a high-Treſpaſs. 3 *Inſt.* 84.

A Chaplain fixed an old Seal to a new Patent of Non-reſidency, it was holden miſpriſion of Treaſon. *Terms of Law. ibid. Dal.* 328.

Knowing money to be counterfeit, and bringing it out of *Ireland* into *England*, and uttering it in payment; is miſpriſion of Treaſon. *Terms of Law. ibid. Cro.* 44. b. *Stamf.* 38. 3 *H.* 7. 10.

For miſpriſion of Treaſon the Delinquent ſhall forfeit Goods, Debts, Duties, and his land for life, and ſhall be impriſoned during life. 3 *Inſt.* 134.

For miſpriſion of Felony he ſhall only be fined. *Dal.* 231. *Terms of Law. ib. Cro.* 44. 2.

Miſpriſion of Treaſon.

To draw a Sword, or ſtrike a Juſtice ſitting in place of Judgment. *Dal.* 334. 3 *Inſt.* 140.

To ſtrike a Juror in preſence of the Juſtice ſitting in place of Judgment: *Dal.* 334.

To ſtrike one in *Weſtminſter-Hall*, any of the Kings Courts ſitting. *Dal. ibid.*

In all which caſes the offender ſhall loſe his right hand, and ſhall have judgment as in Miſpriſion of Treaſon. Dal. 335.

For ſtriking in the Kings Court, and drawing blood, the King being there, loſs of the right hand, fine and impriſonment during life; but no forfeiture of Lands, nor Goods. 3 *Inſt.* 140. *Stamf.* 38. So in the Tower. 33 *H.* 8. 12.

Not ſo in the Court of Requeſts, or Dutchy. 3 *Inſt.* 141.

Striking on the Court of Ward Stairs not loſs of hand. 1 *Cro.* 374.

A ſtranger reſcuing one arreſted by a Juſtice, upon an affray, ſitting in place of Juſtice, whereby he eſcapeth, it is miſpriſion of Treaſon. *Dal.* 231.

For offenders in High Treaſon, miſpriſion of Treaſon, *Præmunire*, tho a Juſtice of Peace cannot meddle in the very point of the offence, yet upon complaint to a Juſtice of Peace, or other knowledge, he ought to cauſe the party to be apprehended; and joyning with ſome other Juſtice of Peace, to take the offenders examination and information upon oath of ſuch as bring them, or other that can prove any thing material, and put it in writing under the hands of the Informers; and commit the offenders to goal; and bind over thoſe which prove any thing material to appear before the Lords of the Council, or elſewhere to give evidence upon reaſonable

ſonable warning, and to certifie their doings to ſome of the Lords of the Council, or elſewhere. *Dal.* 336.

Willingly to aid and maintain, or knowing ſuch as have abſolved, perſwaded, or withdrawn any within the Kings dominions from their obedience, or Religion now eſtabliſhed, to the Romiſh Religion, or moved them to yield obedience to any other eſtate, or practiſed to do any of them, and doth not within twenty days diſcloſe it to ſome Juſtice of the Peace, or higher Officer; it is miſpriſion of Treaſon. 23 *El. c.* 1. *Lamb.* 412. *Dal.* 332.

Within ſix weeks after any any Bull or other inſtrument of reconciliation hath been offered, not to reveal it to ſome of the Privy Council; or Preſidents of the North, or *Wales*; is Miſpriſion of Treaſon. 23 *El. c.* 1. *Lam.* 413.

Miſpriſion of Treaſon done out of the Kingdom, inquired, and tried within it; in *B. R.* or by ſpecial Commiſſion.

Miſpriſion of Felony.

He that ſeeth one killed by another, or robbed, or any other Felony committed, and is not of their confederacy; and doth not make reſiſtance, or diſturb the Felon, or levy Hue and Cry, but conceal the ſame; it is miſpriſion of Felony, and finable. 14 *H.* 7. *c.* 31. *Crom.* 44. *Dal.* 395.

A man foreknows of a Felony to be done, and conceals it, and it is effected; it is miſpriſion of Felony. *Quare Crom.* 41. *b. nu.* 5. *Dal.* 298. So compounding of a Felony.

If any adviſes the Felons Friends to perſwade the witneſſes not to give evidence againſt him; it is miſpriſion of Felony.

Every

Every Treaſon or Felony doth include miſpriſion; ſo that where any hath committed Treaſon or Felony, the King may cauſe the offender to be indicted and arraigned but of miſpriſion. *Crompt.* 44. b. *Dalt.* 234. *Staunf.* 37. d.

Mitigation of Fines and Forfeitures.

Vide Lamb. 577.

Mittimus.

Mittimus muſt contain the names of the parties, their offences, and time of Impriſonment, that it may appear whether the priſoner be bailable, or not. *Lamb.* 297. *Crompt.* 153. 2. *nu.* 11. *Dalt.* 439, 406, 407.

If one be committed without bail or mainpriſe, and the cauſe is expreſſed in the *Mittimus*, and yet is bailable, other Juſtices of the Peace may bail him. Yet *quære*, ſeeing their authority is equal. *Dal.* 439. But if no cauſe be expreſſed, other Juſtices ſhall not do well to bail him without the privity of the firſt Juſtices; becauſe the cauſe of commitment may (probably) not be bailable. *Dal.* 439.

If the *Mittimus* be general, the other Juſtices that bail, muſt take notice at peril. *Ib.*

There is a Writ thus called, for removing Records of Outlawry, Judgment in *B. R. &c.* into the Common Place; or an Act of Parliament into *B. R. &c. Vide* 1 *Cro.* 134, 298. *Hob.* 111. 135.

The

The Form of the Mittimus.

To ſend Felons to the Goal. *Lamb.* 220. *Dalt.* 511.
To ſend Rioters to the Goal. *Lamb,* 321.
To ſend ſhooters in Pieces. *Lambert* 297. *Dalton* 515.
To ſend upon Forcible Entry, *&c.* *Lambert* 150. 520.
To ſend to the Houſe of Correction. *Dal.* 513.
To ſend an Ale ſeller without licence. *Dalt.* 512.
To ſend a reputed Father of a Baſtard. *Dal.* 512.

Monaſteries. Vide *Religious Houſes.*

Mortuaries.

Spiritual perſon not to take Mortuaries, or any thing for them, where they have not been uſed to be payed; or where the goods of the dead are under ten marks: taking above three ſhillings four pence where the goods are under thirty pounds, or above ſix ſhillings eight pence, where they are above thirty pounds, and under forty pounds; or above ten ſhillings, where they are above forty pounds, he ſhall forfeit all taken above his due, and forty ſhillings to the party grieved. 21 *H.* 8. *c.* 6. *Lamb.* 435, 436. *Vide* Extortion.

There is a Proviſo in the ſaid Statute, that Mortuaries ſhall be paid in *Wales*, and the Archdeaconry of *Cheſter*, as they have been accuſtomed. *Ib.*

And Prohibition lies upon ſuit in Court Chriſtian; for

for Cuſtoms are determinable at Law. 1 *Crompton.*

Multiplication of Gold and Silver.

To practice the art of Multiplication of gold and ſilver, is felony. 5 *H.* 4. *cap.* 4. *Lam.* 227, 425.

That is, changing any other metal into Gold or Silver by a Quinteſſence, Elixar, or Philoſophers ſtone, 3 *Inſt.* 14.

Murder.

Murder is, when one man upon malice precedent, prepenſe (or forethought) doth kill another feloniouſly, that liveth within the Realm, or under the protection of the King, whether it be openly or privately; and whether the party ſlain be Engliſh or Alien. *Lam.* 237. *Crom.* 21. 2. *nu.* 1. *Dal.* 342. Clergy taken away. 1 *Ed.* 6.

The killing ſhall have relation to the death, and not to the ſtroke. 4 *Cook* 42. *Cro.* 21. 2. *nu.* 1.

Malice is either expreſſed. *Crompt.* 21. 2. *Dalt.* 241. Or,

Implyed. *Lamb.* 239.

Malice expreſſed, is, when it is known that there is malice between them. *Crompt.* 21. 2. and is apparent; and where there is a precedent falling out; or lying in wait; or time and place appointed. *Dalt.* 343. *Lam.* 238.

Malice implyed, is, when one is killed ſuddenly without defence. *Dalt.* 343. *Cro.* 21. 2. *nu.* 2.

As where one killeth another without provocation. *Lam.* 239. *Dal.* 343.

One buſied, as reading, going over a ſtyle, &c. killed. *Cro.* 27. 2. *nu.* 20. *Dal.* 343.

One

One ſtabbed, not having a weapon drawn, and dying in ſix months. 1 *Jac. c.* 8. *Dal.* 343.

To kill an Officer known in executing proceſs. *Dal.* 343.

To kill an unknown Officer, if he ſhew his warrant; and if an Officer hath the Kings Writ, or lawful Warrant, tho the proceſs be erroneous in the awarding, or one proceſs miſtaken for another, and ſlain in executing it; it is murder. *Lam.* 240. *Dal.* 343. 2 *Cro.* 280. 9 *Co.* 68.

So tho the arreſt were in the night; but where the arreſt is tortious; as where an Officer not known ſhews not his warrant, or the arreſt on a Sunday (by *Car.* 2.) it is but manſlaughter. *Ib.*

To kill any Magiſtrate, or Miniſter of Juſtice in executing his Office, or in keeping the peace. *Dal.* 343. *Cro.* 25. b. *nu.* 51.

Juſtice of Peace, Sheriff, Under-Sheriff, Sergeant, Conſtable, a Watchman ſlaying Night-walkers. 1 *Cro.* 280.

An Officer whipping, or branding to death, is a Murderer. *Dal.* 344.

A Rioter killeth an Officer, or an aſſiſtant coming to ſuppreſs a Riot; it is murder in all the Rioters. *Cro.* 23. b. *nu.* 28. *Lam.* 241. *Dal.* 443.

One killed in a Riot about felling Woods. *Hob.* 138.

A Conſtable parting an affray, or any of his company coming to aid him, altho it was ſuddenly, and in the night. *Crom.* 25. 2. *nu.* 51. *Dal.* 343.

A Thief killing a true man in reſiſting, it is murder of malice prepenſe. *Lam.* 241. *Dal.* 344. *Cro.* 22. 2. *nu.* 13. Malice is implied 9 *Co.* 67.

1. A man carried his ſick Father into the Froſt, whereby he died. *Lam.* 740. *Dal.* 344.

2. An Harlot hid her child, and covered it with leaves, and a Kite ſtruck it, and killed it. *Dal.* 344. *Lam.* 240.

3. The owner knoweth his beaſt to be accuſtomed to

to hurt, and doth not tie him up, and after the Beast killeth a man. *Lam.* 239. *Dal.* 344. So of a horse used to strike. *Dal. ib.*

In these three cases voluntas reputabitur pro facto; *for it sheweth that they had a will to hurt, and the will doth amount to malice* (Dal. ib.) *and so to murder.*

One having malice against another, assaulteth that other, and after flyeth to the wall, and then killeth that other; it is murder; for he slew him in the said malice wherein he did assault him. *Lam.* 239.

A Physician, or Surgeon having malice, applies a contrary Medicament, of which the Patient dies. *Dal.* 344.

One condemned to die is killed by a private person without warrant; or by the Judge who condemned him; or by the Officer contrary to the Judgment; it is murder. *Lam.* 240. *Dal.* 340. 5 *El.* 1.

Prisoner killed by his Goaler by over-hard keeping; it is murder. *Lam.* 240.

One commandeth his servant to beat a man, who beateth him, so that he dyeth thereof; it is Murder in the commander. *Dal.* 396. Murder in both, if it be in the commanders presence. *Lam.* 241.

Many come to do an unlawful act, and ones hand (in doing thereof) killeth a man; it is murder in all, altho they did but look on. *Dal.* 347. *Cro.* 22. a. *nu.* 10. 24. b. *nu.* 43. *Lam.* 241 *Stamf.* 40. If they be not present, yet if they be in the same house, or upon the same ground, it is murder in all. *Dalt.* 347. *Crompt.* 25. a. *nu.* 5. *Lam.* 241.

All present and aiding, abetting or comforting another to do murder, are principals. *Dal.* 347. *Lam.* 243. *Cro.* 22. a. *nu.* 15.

Two appoint the field and meet, and bring company with them, and one of them is slain; it is murder in all that came with the murderer. *Dal.* 347. *Plo.* 100.

Murder is intended to one, and he killeth another; it is murder. *Lam.* 243. *Dal.* 346.

A

A woundeth *B* in fight, and after they meet ſuddenly, and fight; if *B* kill *A* it is murder; for it is intended malice upon the former hurt; but if *A* kill *B* it is but manſlaughter, for the hurt did appeaſe his former malice. *Lam.* 251,238. *Dal.* 345.

Two in ſuit meet and quarrel, and the Defendant killeth the Plaintiff. *Quære* if it be murder. *Dal.* 345.

Note, where is no ſufficient provocation, tho there appear no malice in proof; as for words, or making a wry mouth, and killing follows; the Law preſumes malice. 9 *Co.* 67. 3 *Cro.* 779.

Two playing at Tables fall out in their Game, and one kills the other with a dagger; held murder. *Cro.*

The Husband upon words between his Wife and him ſtrikes her with a peſtel, and kills her, murder. 43 *El.* at *Stafford* Aſſiſes.

Bird challenges *Taverner* for that *T.* had not payed him money owing; *T.* payed it, but meets, and is killed; murder. 2 *Rolls* 260.

One diſcharges a piſtol at another, miſſes, throws it down, and flies; and being purſued, turns, and kills the other with a dagger; it is not intended in his own defence, but in purſuance of his firſt murdrous intent; otherwiſe if there had been a full interruption. *Bac.*

A Woodward commanded a Boy from a Tree (who without reſiſtance came down) tied him with a Rope (that was about the Boys middle) to his horſes tail: ſtruck him ſeveral blows with a ſtick; the horſe (frighted) ran dragging the boy, till his ſhoulder was broke, and he died; adjudged murder, and the Law implyed malice prepenſe. 1 *Cro.* 131.

Wife committing murder by the Husbands compulſion; is felony in both. *Dal.* 374.

Two fight upon malice, and one of them killeth one that came to part them; it is murder in both, unleſs it be proved which killed him. *Dal.* 346. *Lam.* 242.

The owner rebuked one ſtealing his Pears, who killed the owner; it was adjudged murder. *Dal.* 346. *Lam.* 241. *Cro.* 24. 2. *nu.* 34.

Poiſon-

Poiſoning of another willfully whereby he dyeth, is and was murder by the Common Law. *Dal.* 348.

The party poiſoned muſt die within a year and a day after the receiving of the poiſon. *Dal.* 348. *Vide* Poiſon.

After the beating or hurting another, to make murder, or other homicide, the year and the day is reckoned from the ſtroke given. *Dal.* 346. *Crompt.* 23. b. *nu.* 54.

An Appeal hath relation to the death. *Ibid.*

A woman delivered of a Baſtard, endeavouring privately either by drowning, or by ſecret burying to conceal the death thereof, as that it may not come to light; whether it were born alive or dead, but be concealed, ſhall ſuffer death, as in caſe of murder, except ſhe make proof by one witneſs that the child was born dead. 21 *Jac. c.* 27. *Dal.* 393.

It is not felony to kill the child in the womb (by hurting the mother) tho it die after the delivery, by the hurt before; unleſs the mother die within the year and day. *Dal.* 348.

Juſtices of Peace may take Indictments of murder, as of murder. *Lim.* 493.

A man hath a horſe that will ſtrike ſuch as come near him, his maſter knowing it, rideth among people, the horſe killeth a man, it is felony in the maſter. *Dal.* 344. *Lam.* 239. *Cro.* 24. b. *nu.* 45.

Indictment of murder muſt expreſly have *murdravit*: for *ex malitia præcogitata, & voluntate, & felonice interfecit*, is not ſufficient. *Crompt.* 101. a. *nu.* 4. 4 *Ca.* 39. b.

Muſters.

Convicted before the Juſtices of Peace for offence againſt the Statute of Muſters, ſhall be impriſoned ten days without bail, unleſs he pay the forfeiture, being

being forty ſhillings, which is for abſence without reaſonable excuſe, or not ſhewing his beſt furniture, being commanded. 4 & 5 *P. & M. cap.* 3. *Lam.* 349, 481.

The party that ſueth upon the ſtatute of Muſters, is to recover the forfeiture belonging unto him by action, or bill of debt. *Ib. Lam.* 583.

If any authoriſed to muſter, or levy men in war, or defence of the Kingdom, ſhall take money or reward to ſpare any defaulter, he ſhall forfeit ten times the reward; ſo treble to the Soldier, to whom he pays not in ten days after receit of his pay. *Dal.* 230.

Name.

THe Names and Sirnames of the party indicted muſt be certainly expreſſed; and if the Indictment be of an acceſſary in Felony, the name of the principal muſt be ſet down alſo. *Lam.* 488.

Levying a Fine, ſuffering a Recovery, confeſſing a Judgment, entring Statute or Recogniſance, filing bail in anothers name, is felony *ſans* Clergy, the party not knowing it.

Nets. Vide *Hunting*, *Partridges and Pheſants.*

News.

Contriver, Speaker, or Teller of falſe or counterfeit News, whereof diſcord, &c. may ariſe betwixt

the King and his Nobles, or any other falſe news, lyes, or other falſe things of Prelates, Dukes, Earls, and Barons, &c. whereof diſcord and ſlander may ariſe within the Realm, ſhall be impriſoned till he find out the Author; and if he cannot find him, ſhall be puniſhed by the advice of the Council. *Weſt.* 1. 3 *Ed.* 1. *c.* 33. 2 *R.* 2. *c.* 5. 12. *R.* 2. *c.* 11. 1 & 2 *P.* & *M. c.* 3. Not bailable. *Dal.* 450. *Vide Dal.* 258.

An Action may be brought upon the Statute in the *Tam quam*, becauſe it concerns the King by a mean, being a publick Statute whereof the Judges muſt take notice. 4 *Co.* 13. 2.

For ſaying of four Lords, one or two of them have committed Treaſon, Action (*Stand. Mag.*) lies for all. *Hob.* 252. *Vide plus* in Fiſh.

Night-walkers. Vide *Watches.*

Noble Perſonages.

A Noblemans promiſe to keep the Peace hath been held ſufficient. *Dal.* 267. *Lam.* 81. 82.

A Juſtice of Peace may not grant warrant of the Peace againſt a Lord of the Parliament. *Dal.* 267.

So not arreſted by *Capias*. 26 *H.* 8. 8

Day of Grace not given againſt a Peer. 27 *H.* 8. 11.

Nor againſt a Dutcheſs, Counteſs, or Baroneſs: for they are Peers of the Realm, and ſhall be tryed by their Peers, and have the ſame privileges that Dukes, Earls and Barons have. *Dal.* 267.

Dutcheſs, Counteſs, or any Noble by birth, marrieth with a Gentleman, ſhe loſeth not her name of Dignity: but if ſhe be made noble only by marriage, and her husband dying, marry a Gentleman, ſhe loſeth her Dignity. *Cro.* 110. 2. *Dalt.* 267. 6 *Co* 52, 53. But by curteſie, and cuſtomary permiſſion they retain any Dignity

Dignity gained by marriage. *Vide* Clergy, that a Nobleman may have his Clergy for any Felony, except wilful murder and poiſoning.

None are noble under the degree of a Baron, *Law.* 539.

Where a Peer, or Lord Spiritual is party (tho with others) a Knight muſt be returned of the Jury. 1 *Inſt.* 156.

Peers offending the third time againſt 13, 14 *Car.* 2. of Quakers, ſhall be tryed by their Peers. *Dal.* 181.

Non ſanæ memoriæ.

There be three ſorts of perſons *Non ſanæ memoriæ*, or *Non compotes mentis*. *Dal.* 358.

1. A natural fool, who is ſo from his birth.

2. He that was once of ſound memory, and after by ſickneſs, hurt, or other accident or viſitation of God, loſeth it.

3. A Lunatick, *qui gaudet lucidis intervallis*, and ſometimes is of good underſtanding, and ſometimes is not *compos mentis*.

Binding or beating a Lunatick, being for neceſſity, is no crime. *Hob.* 96.

Nuſance.

Every man may in a peaceable manner aſſemble a meet company to do any lawful thing, or to remove or caſt down any common Nuſance. *Dalt.* 107. *Crompt.* 66. 2. *nu.* 64.

One is indicted of Nuſance, and acknowledges it, infinite diſtreſs ſhall go to the Sheriff to remove it, and he ſhall not be received to his fine, till the Sheriff return that it is removed. *Cro.* 186.

Every common Nuſance is puniſhable in a Court Leet, done in the Kings High-way. 27 *H.* 8. 27.

Erecting a Gate croſs a High-way, tho for preſervation of a Wood, and eaſie to be opened, 1 *Cr.* 185. it may be removed, or cut down by any man. *Ib.*

Erecting of a Dam, part on his own, and part on anothers Land: and the other may pull down that part, tho the owners part falls too. 3 *Cro.* 269.

So it is of a Wall built on his own and anothers Land. *Ib.*

An Action of the Caſe lies as well as an Aſſiſe for a Nuſance of ſtopping his way to his Common, tho the Inheritance come in queſtion. 3 *Cro.* 845.

Stopping of a Conduit-pipe is a Nuſance. 14 *Hen.* 8. 31.

No Enditement of Nuſance ſhall be quaſhed, without Certificate of the Nuſance removed.

If any perſon ſhall water Hemp, or Flax in any River, Running Water, Stream, Brook, or common Pond where Beaſts are uſually watered, he ſhall forfeit twenty ſhillings to the King and party. 33 *H.* 8.

Tranſportation of Leather a common Nuſance, by 14 *Car.* 2. *c.* 7.

So Importation of Cattel from *Ireland*, by 18 *Car.* 2. *c.* 2.

No Butcher, nor his Servant ſhall ſlay any Beaſt in any City, Borough, or walled Town (*Barwick* and *Carlile* excepted) upon penalty of twelve pence for every Ox, eight pence for every Cow, and other Beaſt.

Oad.

NO Cloth, *&c.* ſhall be maddered for black, unleſs firſt grounded with Oad, upon forfeiture of the Cloth, *&c.* to the King and Informer. 23. *El.*

No Logwood mixt with Oad or other Stuff in dying, upon penalty of twenty pounds, and Pillory. 39 *El.* 21.

Oath.

The Form of the Oath for the Surety of the Peace, is,

You ſhall ſwear, that the Surety of the Peace which you require againſt *A B* is not of any malicious intent, for vexation, but for very fear, and for the needful preſervation of your body and goods in ſafety; ſo help you God. *Lam.* 83.

Oath of the Juſtices of Peace. *Vide Dal.* 13.

Oath of Supremacy. *Dal.* 14.

Oath of Conſtables and Churchwardens is to be inlarged. *Vide* Tiplers. *Vide* the form. *Dal.* 424.

Oath of Alliegiance. *Dal.* 15. 3 *Jacob. cap.* 4. 7 *Jac. c.* 6.

The Oath of Abjuration, or Declaration againſt Tranſubſtantiation. *Vide Dal.* 16.

Oath of Abjuration by a Recuſant convict departing out of the Realm, is thus,

You ſhall ſwear, that you ſhall depart out of this Kingdom of *England*, and out of all other the Kings Majeſties Dominions; and that you ſhall not return hither, or come again into any of his Majeſties Dominions; but by licenſe of our Soveraign Lord the King, or of his Heirs. So help you God. *Vide Stamf.* 119. *Wilk.* 40.

Oath of an Exciſe-Officer, *Dal.* 67.

Oath of a Commiſſioner of Sewers. *Vide Dalt.* 220.

Oath of Preachers by 17 *Car.* 2. the *Oxford* Act. *Dal.* 60.

No Judge, Commiſſioner, or Subject is compellable

to take any Oath, but what is warranted by the Common Law, or directed by Statutes; and therefore where they are ſo directing Oaths, you ſhall have Juſtices of Peace enabled to adminiſter them. *Dalt.* 140.

An Offender ſhall not be examined upon oath: *nemo tenetur prodere ſeipſum. Cro.* 193. *Dal.* 411.

To be capable of election of a Member of Parliament, one muſt ſwear that he hath land (of Free-hold) of forty ſhillings *per annum* in the County, *&c.*

The Oath of Supremacy is to be taken by Spiritual Perſons, and Lay-Officers before admittance; but if one having an inheritance in the Office refuſe, and after in his life time take it, he ſhall enjoy it. *Dal.* 184.

Oath of being robbed, *&c.* may be taken by a Juſtice of Peace out of the County. 1 *Cro.* 213.

Oath of a poor Priſoner to diſcharge him. *Vide* 22, 23 *Car.* 2. and 30 *Car.* 2.

If the priſoner take a falſe oath, he ſhall be impriſoned for ſeven years, *&c. Ib.*

The Maior of *Newcaſtle* impowered by 30 *Car.* 2. to give oath to perſons imployed by Commiſſioners for admeaſurement and marking of Boats and Keels in the River *Tyne.*

The *Cuſtos Rotulorum*, or any two Juſtices of the Peace, one being of the *Quorum*, may take the Oaths of Under-Sheriffs of their County, their Bailiffs, Deputies, Clarks, or Under-officers, before they ſhall exerciſe their ſaid Offices. *Vide* 25 *El. c.* 12. the form of the Oath, and *Dal.* 225.

Quære, if Juſtices of Peace may examine upon oath ſuddenly of their ſufficiency. *Dal.* 275. Juſtices of Peace in their Seſſions may do it. *Cro.* 194. 2. *Br.* impriſonment 18.

Default of Under-Sheriffs, their Clarks, Bailiffs, *&c.* in not taking their Oaths for execution of their Office, is to be heard and determined at the Quarter Seſſions. 27 *El. c.* 12. *Lam.* 615.

Under-

Under-Sheriffs, Bailiffs, &c. doing any thing contrary to their Oaths, loſe to the party grieved treble damages. 27 *El. c.* 12. *Lam.* 433.

Where the refuſer of the Oath of Allegeance ſhall incur a *Præmunire*. *Vide Præmunire.*

Refuſer of the Oath of Allegeance is diſabled to execute any place of Judicature, or Office, being no Office of Inheritance; or Miniſterial Function; or practice of the Law, Civil or Common; or the ſcience of Phyſick, Chirurgery; or the Art of an Apothecary; or any liberal ſcience. 7 *Jac. c.* 6.

One Juſtice of Peace to whom complaint is made, may commit to the Goal without bail till the next Aſſizes, Goal delivery, or Quarter Seſſions, any above the age of eighteen years (under a Baron or Baroneſs) which ſtand preſented, indicted, or convicted for not coming to Church, or not receiving the Communion, or which by the Miniſter, Pety Conſtable and Churchwarden, or any two of them, ſhall be complained of to any Juſtice of the Peace, and by him ſuſpected, may by ſuch Juſtice be required to take the Oath of Allegeance, and may be committed without bail till the next Aſſizes, for refuſing the Oath of Allegeance. 7 *Jac. c.* 6. *Lam.* 199. *Dal.* 140.

Two Juſtices of the Peace, one being of the *Quorum*, may require any perſon of the age of eighteen or above, under the degree of a Baron or Baroneſs, to take the Oath of Allegeance, and on refuſal to commit him to the Goal without bail till the next Aſſizes or Quarter Seſſions. 7 *Jac. c.* 6. *Lam.* 363.

Every Male perſon ſhall be ſworn at the Turn or Leet, in the Oath of Allegeance, if of twelve years of age. 1 *Inſt.* 122. b.

Information by a decrepit perſon, or unable to travel muſt be upon Oath. *Dal.* 408.

Where the examination of a Juſtice of Peace is the conviction of the party, there it ought to be upon Oath: but where it is but to inform the Jury upon

the Indictment, it needeth not. *Lam.* 536. *Dal.* 411. Tho the ſtatute doth not expreſly ſay it ſhall be upon Oath. *Dal. ibid.*

In caſes of Felony it ſeemeth convenient that the Information be upon oath, otherwiſe the examination ſhall not be given in evidence. For

If the Examinate die before the trial, the examination may be evidence; without Oath many will ſpeak coldly. It is the practice of the Courts in *Weſtminſter*. *Dal.* 411. *Cro.* 194. 2. *nu.* 5. *Lam.* 213, 214, 215. *Br.* Examination. 32.

Oath may be required of a buyer of a horſe ſtollen; what money he payed, that the right owner, upon paying it, may have his horſe again. 31 *El.* 12.

The refuſing the Oath of Allegeance required by two Juſtices of the Peace, and the taking of the ſame and oath of Supremacy by a conformed Recuſant returning into *England*, are to be certified at the next Quarter Seſſions. 7 *Jac. c.* 6. *Lam.* 362, 363, 616.

The Oath of Allegiance being required at Quarter Seſſions of ſuch as formerly refuſed the ſame, and being there tendred and refuſed, the refuſers (other than Noblemen and Women) incur *Præmunire*, except women covert, who are to be ſent to the Goal without bail. *Lam. ib.*

No perſon may maintain that the taking of an Oath in any caſe whatſoever (tho before a lawful Magiſtrate) is unlawful and contrary to the word of God; nor may willfully refuſe to take an oath by the Laws of the Land, being duly tendred; nor may perſwade any other to forbear the taking of the ſame ſo tendred; nor go about by Printing, Writing, or otherwiſe to maintain that the taking of an oath in any caſe whatſoever is unlawful; upon the penalty of five pounds for the firſt offence, as is in caſe of *Quakers* (for which ſee 13 & 14 *Car.* 2. *c.* 1. and title *Quakers*) *Dal.* 141.

Obedi-
ence

Obedience to the King.

If any practice to abſolve, perſwade, or withdraw any from their natural obedience to the King, or (for that intent) from the Religion now eſtabliſhed here, to the Romiſh Religion, or to move them to promiſe obedience to the See of *Rome*, or other eſtate, or if any have been willingly ſo abſolved, or have promiſed ſuch obedience, it is Treaſon. 23 *El. c.* 1. *Lam.* 412, *Cro.* 18. a. *Dal.* 332.

Colore Officii.

When Officers take any thing *Colore officii*, it is taken *in malam partem*, and is extortion, and the office is but a veil to cover the fault: but when it is *ratione* or *virtute officii*, then it is *in bonam partem*, *Crompt.* 57. b. *nu.* 2.

Ordinary.

His Fees. *Vide* Fees.

The Ordinary ows not his attendance at the Seſſions of the Peace, as he doth at the Goal delivery. *Lam.* 395, 396.

The Court may allow Clergy in ſtrictneſs of Law, tho the Ordinary or his deputy be not there. *Cro.* 118. b. *nu.* 43. *Stamf.* 133. a.

A Felon adjudged to be hanged, in failing to read, may in favour of life have the benefit of Clergy at the Gallows. By which it appeareth, that the Ordinaries preſence is not of neceſſity. But this is intended where the Felon is adjudged in the Kings Bench, not at the Aſſizes, for their Commiſſion endeth with their Seſſions: but before Juſtices of Peace it ſeemeth he may have his Clergy at the Gallows, for their Commiſſion continueth,

Continueth, and may allow Clergy without an Ordinary. *Cro.* 119. 2. *nu.* 54, 56. *Stamf.* 132. b. yea one reprieved may pray his Clergy at the next Aſſizes, *Cro ib. nu.* 56. The Judges are Judges of the Clerks reading, and not the Ordinary. For if the Ordinary ſay that he readeth, and cannot, he ſhall be hanged, and the Ordinary fined. *Cro.* 119. 2. *nu.* 49. *Vide plus* in Clergy, Extortion.

Orchards and Gardens. Vide *Hedge-breakers.*

Overſeers of the Poor.

Overſeers for the Poor for every Pariſh are to be nominated yearly in Eaſter-week, or within a month after, by two Juſtices of Peace, one being of the *Quorum*, under their hands and Seals, dwelling in, or near the Pariſh. 43 *El. c.* 2. *Lam.* 360. *Dal.* 146.

Four, three or two ſubſtantial Houſholders, not Inmates. 21 *Jac.* 28. *Dal.* 147.

Overſeers in the Towns of *Lancaſhire*, *Cheſhire*, *Derbyſhire*. *Yorkſhire*, *Northumberland*, *Durham*, *Cumberland*, *Weſtmerland*, *&c.* by reaſon of the Pariſhes largeneſs; and Poor ſet a work according to 43 *El.* appointed by 14 *Car.* 2. 12.

Overſeers and Church-wardens with two ſuch Juſtices, may ſet to work children of ſuch as are not able to keep them, and all married and unmarried which have not means to maintain them; and may raiſe a weekly ſtock, or otherwiſe by taxation of every Inhabitant, and diſpoſe thereof. *Ibid.*

Overſeers and Churchwardens (not letted by ſickneſs, or other juſt excuſe allowed by two ſuch Juſtices) ſhall meet monthly in the Church upon Sunday after Evening Prayer, to conſult about ordering of the Poor,

Poor, or forfeit twenty ſhillings a piece. 43 *Eliz. cap.* 2.

Any finding himſelf grieved with the taxation made by the Overſeers, *&c.* or by the Juſtices, may have remedy at the Quarter Seſſions. 43 *El. c.* 2.

In diſability of the Pariſh, the two Juſtices may rate any other Pariſh within the Hundred. If the Hundred be not ſufficient, the greater part of the Juſtices of Peace in other Seſſions may rate other Pariſhes. 43 *El. cap.* 2.

Overſeers and Churchwardens either preſent or ſubſequent, may by warrant of two ſuch Juſtices levy all ſums and arrearages of any refuſer by diſtreſs and ſale of his Good. In default of diſtreſs, two ſuch Juſtices may commit him without bail till payment made. 43 *El. cap.* 2.

Complaint ſhall be made by the Churchwardens and Overſeers in forty days, of a perſon like to be chargeable to the Town, to the Juſtices, *&c. Vide* Poor People.

Certificate of the Miniſter, and one Overſeer, and one Churchwarden to poor perſons to go for work in Harveſt. 14 *Car.* 2. 12.

Two Juſtices to take the account at the end of the year. *Vide Dal.* 153.

No perſon may take relief at any door in the Pariſh, but by the Overſeers appointment; nor beg in the High way, of the Pariſh. *Eſſ.* 15.

Overſeers may be committed till they do account. 43 *El. c.* 2.

All to whom the Overſeers by 43 *El.* 2. may bind Apprentices, may take and keep them as Apprentices, and the Overſeers may with the aſſent of two Juſtices of Peace (one being of the *Quorum*) in their reſpective limits where there be more than one; or by aſſent of one Juſtice of Peace where there be no more; ſet up, uſe, and occupy any Trade, Myſtery, or Occupation, only for ſetting Poor of the Pariſh on work, wherein they

they are Overſeers. 3 *Car. cap.* 4. *Vide* Poor.

The *Quære*, whether perſons of ability, with whom the Overſeers and Churchwardens think fit to place Poor Apprentices, ſhall be compelled to take them by 43 *Elizab.* 2.

Pannel. Vide *Jurors.*

Pardon.

AT the Common Law before the ſtatute of 13 *R.* 2. *ſtat.* 2. *c.* 1. a pardon of all felonies was good for High Treaſon, counterfeiting Great Seal, Coin, *&c.* after for Murders, and ſo for pety Treaſons. *Law.* 561. 2 *Ed.* 4. 14. and 22 *Aſſ.* 49.

Pardon of all Felonies is not good for murder or pety treaſon, except the pardon be with a *non obſtante*, or that murder be therein expreſly mentioned *Dal.* 348. *Cro.* 21. b. *nu.* 7. 6 *Co.* 13. b.

But it is good for Acceſſaries, both before and after.

A pardon of all Felonies will not diſcharge a man that is attainted of Felony, except the execution and attainder be pardoned. *Cro.* 115. a. *nu.* 1. *Lam.* 562. *Dal.* 348. 6 *Co.* 13. b.

By pardon to Pyrats of all Felonies, the Pyracy was not pardoned by the Coronation Pardon, being Felony only by the Civil Law. *Hil.* 2. *Jac.*

Breaker of the peace after the pardon, forfeiteth the pardon, and may be hanged notwithſtanding his pardon. *Cro.* 113. b. *nu.* 16. *Dal.* 349.

The King only can pardon Treaſon, Murder, or other

ther Felony, or any acceſſary thereunto. *Dal.* 349. 9 *Ed.* 4.

General Pardon is, that which is given by Act of Parliament to all men, of which the Court ought of duty to take notice and give allowance, tho the party will not plead it, nor accept the benefit thereof. *Lamb.* 559, 560. *Cro.* 115. b. *nu.* 13.

Vide Hob. 67. and 3 *Inſt.* 233. that a pardon, tho general, muſt be pleaded, and averrment muſt be that he is within the Pardon, and not excepted; for there are many conditions in ſuch pardons.

Pardon for not repairing a Bridge or High way may diſcharge the fine, but the offence remains, for which the party is chargeable at the ſuit of a Subject. 12 *Co.* 30.

When there is no day in Court to plead a Pardon, the Court will not allow it. 3 *Cr.* 4.

Pardon of Abjuration is not good, without ſpecial words of Abjuration. *Lam.* 562.

Quære, if a general pardon for pety treaſon avail him that is indicted of murder, without the word *proditorie*. *Lam.* 560. *Vide* 33 *H.* 8. *fo.* 50. cited 3 *Cro.* 461, that it does not.

A general pardon (coming betwixt the ſtroke and the death) of all mitdemeanors, will avail for the death. *Lam.* 560.

Quære, if a pardon of all offences (except perſons outlawed of Murder) will avail one that hath committed manſlaughter, and yet indicted and outlawed of murder, and after the pardon reverſeth the outlawry. *Lam.* 560. *Cro.* 116. b. *nu.* 17.

Pardon of attainder and execution for felony, is not good for felony, without words to pardon the felony it ſelf. *Lam.* 562.

Pardon of a Goaler for eſcapes of felony and traitors, is not good for voluntary eſcapes. *Ib.*

Pardon of two for all felonies done by them, or either of them, will not ſerve for offences done by one of them alone. *Ib.*

Pardon

Pardon must agree with the Indictment in name and addition of the party, and nature of the offence; for a pardon of all felonies is not good for pety treason, murder, nor for one attainted of felony. *Lam.* 561.

A special pardon ought to be pleaded under the great Seal, and a Writ of Allowance brought with it, testifying he hath found surety for the good behaviour, unless there be a dispensation by *non obstante*. *Lam.* 561.

General Pardons that are absolute without conditions, need no Writ of allowance. 3 *Inst.* 234.

Prisoner pleadeth a pardon, the Justice of Peace in absence of the King's Attorney, may joyn issue that he is one of the persons excepted. *Lam.* 540. *Stamf.* 103.

He that killeth another *Se defendendo*, needs not sue to the King for a pardon, but shall have it of course. *Stam.* 15. b. *Lam.* 253.

He that killeth one by misadventure, shall have a pardon of course without suit. *Stam.* 16. *Stat.* of *Glo. c.* 9. in both cases the goods are forfeited.

The manner of suing a pardon of course is; If they desire to purchase their pardon, they must upon their tryal plead not guilty, and then the special matter being found by verdict, they shall be bailed; then they must sue forth a *Certiorari* to certifie the Record to the Lord Chancellor, who shall make them a pardon of course under the great seal without suing to the King. *Stam.* 15. *Dal.* 352.

Vide plus in Recognisance.

Park and Parker.

Hunters or killers of any Deer, or Conies in the night, or day-time, in any Park, or Warren, or in any other inclosed grounds, being thereof lawfully convicted; every such offender shall suffer three months imprisonment, and find sufficient surety for the good

good behaviour for the ſpace of ſeven years, or continue in priſon till he find ſuch ſureties for the ſpace of ſeven years, and pay treble damages, or (if it be for Deer) ten pounds to the party grieved, at his election. 5 *El.* c. 21. 7 *Jac.* c. 13. *Dal.* 386. *Vide* Hunting.

The Stat. 3 *Jac.* 13. doth not puniſh offenders in Parks, or incloſed grounds made after the Stat. without the Kings licenſe. *Vide* 5 *El.* 21. *Dal.* 115.

Parſon and Vicar. Vide *Eccleſiaſtical Cauſes.*

Partridges and Pheſants.

Every Juſtice of Peace may examine offences againſt the Statute 23 *El. cap.* 10. for taking of Partridges and Pheſants in the night, and bind the offenders by recognizance with good ſurety to appear at the next Quarter Seſſions, *&c.* And after conviction and puniſhment, take bond with ſureties, that for two years after they ſhall not offend againſt the ſaid Statute. *Dal.* 141, 142. *Lam.* 200. 23 *El.* c. 10.

By 1 *Jac.* c. 27. 1. He that ſhall ſhoot at, kill, or deſtroy with any Gun, Croſs-bow, Stone-bow, or Long-bow, any Partridge, Pheſant, Houſe-dove, Pigeon, Heron, Mallard, Duck, Teal, Wigeon, Growſe, Heath-cock, More-Game, or any ſuch Fowl, or Hare. 2. Or ſhall take, kill, or deſtroy any Partridge, Pheſant, Houſe-dove or Pigeon with ſetting-dogs and nets, or with any manner of nets, ſnares, engines, or inſtruments. 3. Or ſhall take or willingly deſtroy the eggs of any Pheſant, Partridge, or Swan. 4. Or ſhall trace or courſe any Hare in the ſnow; or ſhall take or deſtroy any hare with cords or ſuch inſtruments. 5. Or ſhall keep any greyhound for Deer or Hare, or ſetting dogs, or nets to take pheſants or Partridges, not having lands of inheritance of ten

pounds,

pounds, or thirty pounds *per annum* for life; or in goods two hundred pounds; or be the ſon of a Knight; or ſon and heir apparent of an Eſquire: Any of the ſaid offences being proved by the parties confeſſion, or oath of two witneſſes, before any two Juſtices of Peace of the County where the offence ſhall be committed, or the party apprehended, ſhall be impriſonment for three months without bail, unleſs he forthwith upon his conviction pay to the uſe of the poor there twenty ſhillings for every hare, fowl, and egg, and forty ſhillings for having every ſuch greyhound, ſetting dog, or net, after three months impriſonment be bound with two ſureties not to offend in any of the ſaid particulars, which recognizances taken by two Juſtices of the Peace muſt be returned at the Quarter Seſſions. 1 *Jac.* *c.* 27. *Dal.* 892. *Lam.* 335.

By 7 *Jac. c.* 11. Proof of one witneſs is ſufficient for the taking of partridges and pheſants with ſetting-dogs and nets, or other nets, ſnares or engines, &c. the puniſhment as 1 *Jac.* 27. *Lam.* 334. *Dal.* 142.

Killer of partridges or pheſants. with hawks or dogs, by colour of hawking, between the firſt of *July*, and the laſt of *Auguſt*, upon conviction within ſix months after the offence by the confeſſion of the party, or oath of two witneſſes before two Juſtices of Peace, is to be impriſoned one month without bail; unleſs he pay preſently to the Churchwardens and Overſeers of the poor where he offended, or was taken, forty ſhillings for hawking, and twenty ſhillings for every partridge or pheſant taken. 7 *Jac. cap.* 11. *Lamb.* 335. *Dal.* 143.

Taking of pheſants or partridges upon another mans ground by nets or otherwiſe, except unwillingly by low-bell or trammel, and there to let them go again loſeth twenty ſhillings a pheſant, and ten ſhillings a partridge. 11 *H.* 7. *c.* 17. & 23 *El. c.* 10. *Lamb.* 447. *Dal* 111.

Hawking in Corn before it be cropped, without conſent

conſent of the owner, loſeth forty ſhillings. *Ibid.*

Taker, killer, or deſtroyer by Guns, Bows, Setting dogs, Nets, or other Engines, of any partridge or pheſant, except the owner of a Warren, Lord of a Mannor, or having lands of inheritance in his own (or his wives right) of the clear yearly value of forty pounds; or for life of eighty pounds; or goods worth four hundred pounds; and their houſhold ſervants authoriſed by them within their own grounds in the daytime only betwixt *Michaelmas* and *Chriſtmas*; upon conviction within ſix weeks after the offence committed, by confeſſion or oath of two witneſſes before two Juſtices of Peace next the place of offence or apprehenſion, to be impriſoned three months without bail, unleſs he pay immediately unto the Church wardens and Overſeers of the poor of one of the ſaid places, twenty ſhillings, and be bound to the King by Recognizance in twenty pounds never to offend again; the ſame to be certified at the next General Quarter Seſſions. 7 *Jac.* 11. *Dal.* 142, 143.

Buyer or ſeller of hare, deer, partridge, or pheſant (except partridges or pheſants bred up, or brought up from beyond the Seas) loſeth for every deer forty ſhillings, pheſant twenty ſhillings, hare or partridge ten ſhillings, one moiety to the Informer, the other to the poor of the pariſh. 1 *Jac. cap.* 27. *Dal.* 142.

Conſtable by warrant from two Juſtices of the Peace, may ſearch the houſes of any not allowed, ſuſpected to have any ſetting dogs or nets for partridges, and finding them, may take, carry away, detain, kill, or cut in pieces any of them. 7 *Jac. c.* 11. *Dal.* 143.

Offences againſt the Statute of 1 *Jac. c.* 27. puniſhable by it, are not to be puniſhed by any former, and are to be heard and determined by Judges of Aſſiſe in their Circuit, Juſtices of Peace at Quarter Seſſions, or two Juſtices of the Peace out of the Seſſions. 1 *Jac.* 27. *Dal.* 142.

Who may take partridges and pheſants in their own ground, and when, *Vide 7 Jac. cap. 11. Dal. 143.*

Peace.

Juſtices of Peace may by their Commiſſion take conuſance of ill words, for they tend to the breach of the Peace; eſpecially if againſt a Magiſtrate, &c. 1 *Loll. 79.*

Every private perſon that ſhall be preſent at any affray, aſſault, or battery, ought to part them that fight; and if he take hurt, he ſhall have his action: but if they reſiſt him, he may not hurt them. *Lamb. 131. Dal. 37.*

Every man may ſtay the Affrayers, till their heat be cooled, and then they may deliver them to the Conſtable to impriſon them, till they find ſureties of the Peace; but they may not impriſon them unleſs the one of them be in peril of death by ſome hurt, for then any man may carry the other to the goal, till it be known whether the other will live or die. *Lamb. 131. Dalt. 33. Br. Cor. 225.*

He which hath mortally hurt another, flyeth into anothers houſe, any man that purſueth him with Hue and Cry, may break open the houſe, enter, and take him. *Dalton* ſaith the Conſtable may. *Lamb. 131, 132. Dal. 36.*

If an Affray, Forcible Entry, or any thing in diſturbance of the peace be done in the preſence of a Juſtice of Peace, he may record it, and certifie the ſame, and commit the parties preſently. *Dal. 144. Vide* Affray.

If the Juſtice of Peace certifie into the Kings Bench, that *J. S.* hath broken the peace, upon that Certificate *J. S.* ſhall be there fined without allowing him any traverſe. *Dal. 144.*

Juſtices of Peace may ſuppreſs, and bind to the peace

peace (or good behaviour) unlawful aſſemblers, rioters, wearers of Arms by night or day, night-walkers, and all diſturbers of the peace. *Dal.* 144.

Peers. Vide *Noble Perſonages.*

Pedlers. Vide *Rogues.*

Penalty to the Poor.

To the uſe of the poor, *viz.* for being drunk, five ſhillings paid to the Churchwardens, by 4 *Jac.* 5.

So for taking away eggs of partridges, &c. twenty ſhillings, by 1 *Jac.* 27. For hunting, &c. forty ſhillings.

For deſtroyers of the brood of Sea fiſh, the forfeiture to the poor is the moiety of ten ſhillings, (the other five ſhillings to the Informer) by 3 *Jac.* 1.

For Fleſh in Lent found in Victuallers, &c. houſes, it ſhall be given to the poor. 1 *Jac.* 29.

For ſhooting, &c. partridges and other fowl, twenty ſhillings for each. 1 *Jac.* 27. 21 *Jac.* 28. 3 *Car.* 4.

So ſelling, or buying to ſell again, deer, hare, partridge, pheſant, forty ſhillings each deer; each hare or partridge ten ſhillings; and each pheſant twenty ſhillings to the poor and Informer. 1 *Jac.* 27.

For taking Conies in the night, to the Overſeers of the poor, under ten ſhillings. 22, 23 *Car.* 2.

For keeping an Alehouſe without licenſe of two Juſtices, twenty ſhillings. 5 *Ed.* 6. 25.

For not diſpoſing money for poor Apprentices, three pounds ſix ſhillings eight pence, the moiety whereof ſhall be to the poors uſe. 7 *Jac.* 2.

For not repairing to Church every Sunday twelve pence to the Churchwardens, &c. 1 *El.* 2. 3 *Jac.* 4.

So for meeting at any ſports then, three ſhillings ſix pence 1 *Car.* 1. *c.* 1. *Vide* Recuſants.

Forfeitures for defective meaſures of Cloth ſhall (for the third part) go to the poor of the pariſh where the Cloth was made. 21 *Jac.* 18.

For planting Tobacco in *England*, *&c.* the third part of ten pounds forfeiture for every Rod. 15 *Car.* 2. 33. *Dal.* 236.

For default of a braſs meaſure by the proprietor of a Market, the moiety of five pounds to the poor. 22 *Car.* 2. *Dal.* 248.

For womens and childrens going beyond ſea without licenſe, the ſenders forfeit an hundred pounds, whereof a third to the poor. *Vide* Travelling, *&c.*

For offence againſt 7 *Car.* 1. for weights and meaſures five ſhillings to the poor. *Dal.* 247.

For being forſworn or perjured in the Oath of a priſoner according to the ſtatute, 22, 23 *Car.* 2. ſeven years impriſonment, beſides the penalties in being. 30 *Car.* 2.

Vide the ſtatutes againſt frauds and perjuries. 29 *Car.* 2.

Forfeitures by offending againſt 29 *Car.* 2. for keeping the Lords day, ſhall be (ſaving the reward to the Informer) to the poor. *Vide* Stat.

Perjury.

Procuring any unlawfully to commit wilful perjury in any caſe depending in a Court of Record, Leet, Court-Baron, Hundred-Court, or ancient Demeſne; or hath corruptly ſuborned any witneſs ſworn to teſtifie *in perpetuam rei memoriam*; or if any have upon ſuch procurement, or by his own act wilfully committed ſuch perjury; the procurer ſhall forfeit forty pounds, and if not worth ſo much, half a years impriſonment without bail, ſtand upon the pillory for one hour, and be diſabled

diſabled for a witneſs for ever after. *5 El. c. 9. & 14. El. c. 11. Vide Dal. 452.*

The perjured twenty pounds and ſix months impriſonment, and ever diſabled for a witneſs; and if not worth twenty pounds, to have his ears nailed to the Pillory. *5 El. c. 9. & 14 El. c. 11. & 1 Jac. c. 25. Lam. 416. Cro. 18. 2 b.* This offence to be heard and determined in the Quarter Seſſions. *Lam. 609. Dal. 452.*

Execution of the forfeiture upon the ſtatute of perjury, to be awarded by the Juſtice of Peace before whom the conviction was. *Lam. 585.*

Committing of perjury upon Anſwer to a bill of complaint, is not within the ſtatute of *5 El.* but for a falſe depoſition upon examination upon interrogatories. *Crom. 18. b. nu. 3.*

If any give falſe evidence upon a bill of Indictment at the Seſſions, it is held he ſhall not be puniſhed by the ſtatute of *5 El.* for that the King is not named in the ſaid ſtatute. *Cro. 18. b. nu. 5.* So not in information, *2 Cro. 120, 212.* for the King cannot puniſh his own witneſs.

If an Officer take other fees than are allowed and incident to his Office, he committeth perjury. *Cro. 57. b. nu. 7.*

A man is attainted of perjury, the King pardons, and reſtores him. *Quære*, if his teſtimony ſhall be allowed againſt a priſoner: for *Once forſworn, ever forlorn. Cro. 100. b. Dal. 408.*

Petition.

No perſon ſhall ſollicite, or procure the getting of hands or other conſent of perſons above twenty, to any Petition, Complaint, Remonſtrance, Declaration, Addreſs to the King or Houſes of Parliament, for alteration of Church or State, unleſs the matters be firſt conſented to by three or more Juſtices of Peace, or

by the major part of the Grand Jury at the Assizes, or Sessions; or in *London* by the Lord Maior, Aldermen, and Common Council; nor repair to his Majesty with a company above ten under pretence of petitioning; upon penalty not exceeding an hundred pounds, and three months imprisonment without bail, to be presented at the Assize, or Sessions, in six months after the offence, proved by two (or more) credible witnesses. 13 *Car.* 2. *c.* 5.

But persons not exceeding ten, may present any grievance to a Member of Parliament, during the Parliament; or to the King; and both Houses of Parliament, or either, may make an Address to the King. *Ib.*

Pety-Treason.

The wilful killing or joyning in killing of the husband by the wife, the master or mistress by the servant, the Ordinary by his Clerk, is pety-treason. 25 *El.* 8. *cap.* 2. *Lam.* 245, 246. *Dal.* 336, 337. *Cro.* 19. b. *nu.* 1.

The wife and a servant conspire her husbands death, which is done by the servant in the wifes absence; pety treason in the wife. *Dal.* 337.

The wife poisons an Apple with intent to poison a stranger, and the husband lighteth on it, is poisoned, and dies in a year; pety treason in the wife. *Ib.*

The husband kills the wife; it is only murder; for he ows no obedience, as the wife does. *Ib.*

A Servant of thirteen years of age killed her mistress; adjudged pety-treason. *Br. Treas.* 12.

A Servant departed out of service, a year after kills his master upon malice conceived when in his service. *Br. Treas.* 151.

A servant procures another to kill his master in his presence; pety treason in the servant, murder in the other. *Plo.* 100.

If

If in the ſervants abſence, he is only acceſſary to the murder.

So where the ſervant intends murder, tho to another, and the maſter is killed.

Juſtices of Peace ſhall inquire of pety treaſon, as of felony, and take information, *&c.*

The child maliciouſly killeth the father, or mother, it is pety treaſon, tho the father or mother at the ſame time give neither meat, drink, nor wages to the ſaid child; but it is pety treaſon in the ſaid child in reſpect of the duty of nature violated. *Dal.* 338. *Cro.* 19. b. But *Lambert* ſaith, it is not treaſon in the child, if the father give it not meat nor drink, as to a ſervaut (*Lam.* 245.) and do their buſineſs, for it is as a ſervant. 21 *E.* 3. 17. Mere for Meiſtre, by *Lamberts* opinion.

The Son or Daughter in law kill the Father or Mother in law, with whom they dwell, and do ſervice, and have meat and drink; it is pety treaſon, tho ſuch child take no wages; but the Indictment ſhall be by the name of ſervant. *Dal.* 338.

A Baſtard kills his mother, it ſeems pety treaſon; for the mother is certain. *Ib.*

The daughter is attainted of felony, and kills her mother; tho ſhe is not heir, yet ſhe remains daughter, and it is pety treaſon. 7 *Co.* 13.

Judgment in pety treaſon is; a man is to be drawn, and hanged: if a woman, both in high treaſon and pety treaſon, to be drawn, and burned. *Lam.* 57 c. *Dal.* 338.

The forfeiture for pety treaſon is; the King ſhall have all his goods, and for his lands, *annum, diem, & vaſtum*; and the eſcheat thereof ſhall be to every Lord of his proper fee. *Dal.* 339.

No Clergy is allowed in caſe of pety treaſon. *Dalton* 238.

Pewter. Vide *Braſs.*

Phyſician.

One, neither Phyſician, nor Chyrurgion, taketh upon him to cure a ſick or wounded man, who dieth under his hand, it was felony until 34 *H.* 8. *c.* 8. *Law.* 240. *Dal.* 345.

But if a Smith, or other, having skill only in curing and dreſſing diſeaſes of horſes, or other cattel, ſhall take upon him cutting, or letting blood, or ſuch like cure of a man, who dieth thereof; it ſeemeth to be felony. *Dal.* 345.

Pictures brought from Rome. *Vide* Agnus Dei.

Pillory.

The third offence againſt 1 *Jac.* 11. for ſelling hay and oats, *&c.* reaſonably, *&c.* is ſtanding on the Pillory without redemption of money.

Perſons convict of breaking the Aſſize of Fewel, unable to pay, *&c.* ſet in the pillory with a billet, or faggot bound to his body. 7 *Ed.* 6. 7.

Informers compounding a penalty without conſent of the Courts at *Weſtminſter*, or delaying, or diſcontinuing the ſuit, ten pounds fine, and pillory. 18 *El.* c. 5. The fine to the King, and party grieved.

For the third offence of foreſtalling. 5 *Ed.* 6. 14.

For ill tanning againſt the ſtatute, pillory three market days, and ten pounds. 1 *Jac.* 22.

Pillory and Tumbrel ought to be in every Fair, or Market; or the Lord fined. *Cro.* 114.

Offenders againſt the Statute for Logwood, fined twenty pounds, and pillored. 39 *El.* 11.

Cheaters counterfeiting with falſe tokens, and letters, pillored and fined. 33 *H.* 8. 1.

Burning his own houſe to fire anothers, puniſhed with pillory, and fine and impriſonment. 1 *Cro.* 378.

Falſe Bail, ſwearing himſelf untruly a Subſidy man, was, upon his confeſſion without other proceedings, ſet in the pillory, and brought to the Courts at *Weſtminſter.* 1 *Cro.* 146.

For uſing Logwood (or Blockwood) in dying, and mixing it with Oad, *&c.* pillory and twenty pounds fine. 39 *El.* 11.

For default of paying forty pounds forfeiture for ſubornation of perjury, pillory for an hour, *&c.* and for default of twenty pounds by the perjured, his ears nailed to the pillory, *&c.* 5 *El.* 9. 14 *El.* 11.

A grand Rioter puniſhed by pillory, and bound to good behaviour. *Vide* Riot.

For finding out hid treaſures by charms, *&c.* for the firſt offence pillory ſix hours every quarter of the years impriſonment. 1 *Jac.* 12.

Plays and Players. Vide *Rogues, Unlawful Games.*

Plague.

Head-officers and Juſtices of Peace in a Corporation, or in a privileged place, or two of them, may ſet a weekly tax on the inhabitants of the Corporation, or privileged place, or Liberties thereof, for the reaſonable relief of perſons infected, or dwelling in houſes infected

infected within the ſaid Corporation, or privileged place. 1 *Jac. c.* 31. *Lamb.* 337. *Dal.* 145.

Corporation, or privileged place, not being able to relieve the perſons infected therein, upon Certificate of the Head-officer, or Juſtices of Peace, or two of them, to the two next Juſtices of the Peace, the ſaid two Juſtices may aſſeſs and tax the inhabitants of the County within five miles of the Corporation a weekly tax for the relief of them. 1 *Jac. c.* 31. *Lam.* 337. *Dal.* 145, 146.

There being no Juſtice of Peace in the Corporation, or the infection being in a Hamlet, the two next Juſtices of the County may aſſeſs the inhabitants of the County within five miles of the place infected, for the reaſonable relief thereof. 1 *Jac. c.* 31. *Lamb.* 338. *Dal.* 146.

The taxes, upon refuſal, to be raiſed by warrant of the Head-officers, or Juſtices upon the goods of the refuſer, or upon default of goods returned, the party by another warrant to be impriſoned, till he make payment thereof with the arrearages. 1 *Jacob. cap.* 31. *Dal.* 145.

Taxes made for the relief of places infected, are to be certified at the next Quarter Seſſions, and there to be continued, enlarged, or extended to other parts of the County, or determined by the greater part of the Juſtices. 1 *Jac. c.* 31. *Lam.* 609. *Dal.* 146.

Taxes levied of the County for the relief of an infected Corporation, are to be diſpoſed by the Head-officer and Juſtices of the Corporation, or two of them; and if there be no Juſtice, then by the Juſtices Aſſeſſors. 1 *Jac. c.* 31. *Dal.* 146.

Officers negligent in levying of the taxes, loſe ten ſhillings to be employed as the taxes. 1 *Jac. c.* 31.

Watchmen not to be impeached for hurting thoſe infectious perſons, that being commanded to keep in, will, in offering to come forth, reſiſt the Watchmen. 1 *Jac. c.* 31. *Dal.* 145.

Any

Any infectious perſon commanded to keep in, goeth abroad and keepeth company, having an infectious ſore uncured; it is felony, without corruption of blood, or forfeiture of goods; if without ſore, to be puniſhed as a Vagabond by 39 *El.* and bound to his good behaviour for a year. *Ib.*

Officers of a Corporation and Juſtices of the Peace in the County, may reſpectively appoint, ſwear, and direct Searchers, Watchers, and Buriers of infected perſons and places. 1 *Jacob. cap.* 31. *Lamb.* 197. *Dal.* 145.

One Juſtice of Peace may command perſons dwelling in infected houſes to keep in; and, if they go abroad, violently enforce them. 1 *Jac. c.* 31. *Lam.* 197. *Cr.* 122. b. *nu.* 39. *Dal.* 145.

Plaints in Court.

One Juſtice of Peace may upon complaint examine the Sheriff or Under-ſheriff and Plaintiff concerning the taking and entring of plaints in their County Court, and books againſt the Statute; or any Bailiff of the Hundred for not warning the defendant in ſuch a plaint according to his precept from the Sheriff, or Under-ſheriff; and if he thereby find them faulty, that ſhall ſtand for a ſufficient conviction and attainder without further enquiry or examination; and theſe examinations the Juſtice muſt certifie into the Exchequer within a quarter of a year, on pain of forfeiture of forty ſhillings for every default. 11 *H.* 7. 15. *Lam.* 201. *Dal.* 222.

Sheriff entring plaints in any mans name that is not preſent in Court, nor hath any ſufficient Attorney or Deputy, loſeth forty ſhillings. *Lam.* 431. *Dal.* 222.

So if he enter more plaints than the plaintiff ſuppoſeth he hath cauſe of action for. 11 *H.* 7. *c.* 15. *Lam.* 431. *Dal.* 222.

Pond

Pond and Pond-heads. Vide *Fish.*

Poisoning

Is the most detestable kind of the most hainous felony; so odious, that it was made treason, and the punishment by boiling to death in hot water. 22 *Henr.* 8. *cap.* 9.

But this act, thought severe, was repealed by 1 *El.* 6: 12. and 1 *Ma.* 1. and poisoning maliciously, whereof death ensues within the year and day, declared wilful murder of malice prepense.

The husband gave a poisoned Apple to his wife with murdrous intent, who (not knowing) gave it her child, who died of it; this is murder in the husband, tho he loved the child; so if a stranger had eat and died. 9 *Co.* 81. b. *Dal.* 346.

One brings poisoned drink, and (knowing) perswades another to drink, who did in the absence of the bringer; murder. 4 *Co.* 44.

So of corrupt victual; or laying corruption at the door, and a stranger is poisoned to death. *Co. Lect.*

If one give Spurge comfits, &c. in sport; and the taker dies thereof; felony.

Otherwise of Rats-bane laid to kill Rats; no felony. *Plo.* 474. 9 *Co.* 81 b.

Any Nobleman to have Clergy, but in murder and poisoning. *Vide* Clergy.

Killing the child in the womb with a poison, if quick, (otherwise not) murder. 3 *Inst.* 50.

Pope.

To extol the power of the Pope by writing, cypher-

ing,

ng, printing, preaching, or any ſpeech, open deed or act adviſedly holden or ſtood with; to extol or defend the power of the Biſhop of *Rome*, or of his See heretofore claimed and uſurped within this Realm; or to aber, procure, counſel, aid, or comfort ſuch; is Treaſon, for the ſecond offence; for the firſt offence *Præmunire*. *Dal.* 231. *Lamb.* 411. 5 *Elizab. cap.* 1. *Dal.* 330.

Preſentment at the Quarter Seſſions for extolling the power of the Pope of *Rome*, muſt be certified by the Juſtices of Peace, before whom it was taken, into the Kings Bench, within forty days after, if the Term open; if not, then the firſt day of the next Term, or every Juſtice to loſe an hundred pounds. 5 *El. c.* 1. *Dal.* 133.

Popiſh Books.

Printer, Buyer, Seller, or Bringer from beyond the ſea, of any Popiſh primer, Lady-pſalters, *&c.* in any language, or other ſuperſtitious books in Engliſh, loſeth forty ſhillings a book, whereof one part to the King, another part to the Informer, a third to the poor of the pariſh where the book ſhall be found. 3 *Jac. c.* 5. *Dal.* 194, 331.

Two Juſtices of Peace may ſearch the houſe or lodging of a popiſh Recuſant, or whoſe wife is ſuch, for popiſh Books and Reliques; and finding any unmeet for them to uſe, muſt deface and burn them; or being of value, deface them and reſtore them to the owner. 3 *Jac. c.* 5. *Dal.* 192.

Poor

Poor People.

The price of a Deodand ſhall be diſtributed in alms to the poor by the Kings Almoner.

The apparel and money of one found dead in the field, unknown, ſhall be given to the poor. *Stamf.* 12.

Traveller (with wife and children) not being a rogue, dieth, or runneth away; the Town where that happeneth, is not bound to keep them, where the parents die, nor ſend them away, but only in charity; except they become wandring rogues. *Law.* 208. *Ref.* 7. and *Dal.* 157.

Parents able to work, are to find their children by their labour, and not the pariſh. *Ref.* 8. and *Dal.* 157.

None is to be removed out of the Town where he dwelleth, or ſent to the place of their birth or laſt habitation, but a vagrant, nor found by the Town, except he be impotent. *Ref.* 9. and *Dal* 157.

Perſons deſtitute of houſes by expiration of term, or ſervants out of ſervice, muſt provide houſes for themſelves, and ſervices. *Ref.* 9. and *Dal.* 158.

Able bodies, yet idle, refuſing to work, and no wanderers, are not to be ſent to the place of birth or laſt habitation, but to the houſe of Correction (*Ref.* 10.) by ſuch a Juſtice of Peace as may appoint Overſeers for the poor. 43 *Elizab. cap.* 2. *Lamb.* 209. & 245. *Dal.* 157.

Able bodies, yet idle, and refuſing to work, having any lawful means to live by, are not to be ſent to the houſe of Correction. *Reſol.* 10. *Lamb. ibid. Dalton* 157.

It is finable, to remove or put any out of the pariſh, who are not to be put out, and ſuch may be ſent back. *Ref.* 11. *Dal.* 160.

None may take relief at any mans door in the pariſh, but

but by the appointment of the Overſeers, nor beg in the high-ways in their pariſh. *Reſ.* 15. *Dal.* 157.

Overſeers and Churchwardens refuſing a Rogue, &c. forfeit five pounds.

Parſons, Vicars, Farmers, or owners of impropriations, cole-mines, or ſaleable woods, are to be charged with the relief of the poor. *Reſ.* 18, 19.

Biſhop and his Chancellor and three Juſtices of the peace, have power to examine how much money for relief of the poor appointed by the ſtatute is beſtowed, and to call to account the detainers thereof. 14 *El. c.* 5. & 39 *El. c.* 18. *Lam.* 366.

Juſtice of Peace proved before the Judges of Aſſize by two witneſſes, to be in default about the execution of the ſtatute for the poor, loſeth five pounds. 14 *El. c.* 5. *Lam.* 372.

Parents at the Quarter Seſſions appointed to keep their children, or children their parents, and have not relieved them at their own charges, loſe twenty ſhillings a month. *Lam.* 445. 39 *El. c.* 3, 4.

In diſability of the pariſh or hundred to relieve the poor, the greater part of the Juſtices at the Quarter Seſſions may rate any other pariſh or hundred thereto. 39 *El. c.* 3. & 43. *El. c.* 2. *Lam.* 611.

Beggers children at the Quarter Seſſions may be bound to ſerve any ſubject in an honeſt calling. 14 *El. c.* 5. & 18 *El. c.* 3. *Lam.* 614.

Performance, or not performance of ſo much of the ſtatute of 14 *El. c.* 5. for the poor, as is not altered by 39 *El. c.* 3. or 43 *El. c.* 2. 1 *Jac. c.* 25. is to be yearly examined at Eaſter Seſſion. *Lam.* 620.

Overplus of the ſtock for maimed Soldiers is to be imployed by the greater part of the Juſtices at the Quarter Seſſions to ſuch charitable uſes as are ſet down in the ſtatute for the poor, except by them it be reſerved for future penſions. 43 *Elizab. cap.* 3. *Vide* Soldiers.

Young children, the parents being dead, are to be

ſet

ſet on work and relieved by the Town, where they dwelt at the death of their parents, and not ſent to the place of their birth. *Dal.* 157.

The Juſtices may compel ſuch as be of ability, to take poor children apprentices, and may bind, ſuch maſters refuſing, over to the next Goal-delivery. So ſaid Sir *Henry Mountague* at *Cambridge* Aſſizes 1618, and the ſtatute of 43 *El. c.* 2. ſeemeth to warrant as much, the words whereof are to this effect;

It ſhall be lawful for the Churchwardens and Overſeers, or the greater part of them, by the aſſent of two Juſtices of the Peace, to bind any ſuch children to be apprentices where they ſhall ſee convenient cauſe. Dal. 151. *Or the Churchwardens or Overſeers, with the aſſent of two ſuch Juſtices, may impoſe a competent ſum of money upon ſuch refuſer, for putting out ſuch an apprentice, and upon refuſal to levy it upon the Juſtice of Peace his warrant by diſtreſs and ſale of the offenders goods.* 151.

If the parents without good cauſe ſhewed, refuſe to ſuffer their children to be apprentices, the Juſtices may bind them over to anſwer their contempt; if the child refuſe, ſend him to the houſe of Correction, *quouſque, &c. Dal.* 153.

A maſter putteth his apprentice into apparel, he cannot take it away tho he part with the apprentice. *Dalton* 153.

Two Juſtices of Peace, one being of the Quorum may ſend to the houſe of Correction, or Goal, ſuch as imploy not themſelves in work being appointed. *Dal.* 147. Or any of them. *Vide* 43. *El.* 2.

Upon complaint made by the Churchwardens or Overſeers of the poor of any pariſh to any Juſtice of Peace within forty days, of any perſons coming to ſettle in any tenement under the yearly value of ten pounds.

Any two Juſtices, whereof one to be of the Quorum, may remove ſuch perſons to ſuch pariſh where they were laſt ſettled, either a native, houſholder, ſojourner,

journer, apprentice, or ſervant, for the ſpace of forty days, unleſs ſuch poor perſon give ſecurity to diſcharge the pariſh, to be allowed by the ſaid Juſtices; provided, perſons grieved may appeal to the next Quarter Seſſions. 14 *Car.* 2. 12. *Dal.* 160.

And all perſons may go from place to place to work in harveſt, carrying with them Certificates from the Miniſter, one Churchwarden and one Overſeer of the poor of the place where they inhabit; and ſuch working, or falling ſick, ſhall not be eſteemed a Settlement: And ſuch perſons as refuſe to go, or ſhall not remain in the pariſh where they ought to be ſettled; any two Juſtices of Peace where the offence is committed, may ſend them to the Houſe of Correction as Vagabonds, or to the publick Workhouſe there to labour. 14 *Car.* 2. 12. *Dal.* 160.

Churchwardens and Overſeers refuſing to receive perſons to be removed, and to provide for them as inhabitants, may be bound over to be indited for the contempt. 14 *Car.* 2. 12.

This Act was but temporary, to the end of the firſt Seſſion of the next Parliament; but of general concern. *Dal.* 160.

And ſeveral Corporations are in *London*, *Middleſex*, and *Weſtminſter* for ordering matters touching the poor; and the Juſtices of the Peace of *Middleſex* and *Surrey*, reſpectively in their Quarter Seſſions may chuſe a Preſident, Treaſurer, and Aſſiſtants for their ſeveral Corporations and Workhouſes, and the Officers thereof to give account in writing at every Quarter Seſſion. 14 *Car.* 2. c. 12.

Caſes concerning proviſion for poor people.

Reves *Caſe.* Mich. 7. Car. *R. B. R.* Stat. 43 Eliz. cap. 2.

Poor.

Reve was brought to the Barr by *Hab. Corp.* being committed upon the Statute of 43 *El. cap.* 2. for that he being the reputed father of one *Ben. Gregory*, a poor child, who was maintained by the parish of S. *Giles* in the Fields, and he being a man of ablity refuſed to maintain the child, or to find ſureties for his appearance at next Seſſions. *Reve* moved that the commitment was illegal, being grounded upon the ſaid Statute, wherein is this clauſe, *That the Father and Grandfather, Mother and Grandmother, the children and Grandchildren of every poor perſon not able to work (they being of ability) ſhall pay ſuch rates, and in ſuch wiſe as the Juſtices of that County where ſuch perſon dwells, at their next Quarter Seſſions ſhall aſſeſs, upon pain of forfeiting twenty ſhillings* per menſem. Wherein there is no ſuch perſon taken notice of, as the reputed father of a baſtard, which is *filius populi.*

It alſo appeareth, that *Reve* dwelt in *Suffolk*, and coming to *London* about Law-ſuits was taken by a warrant of a Juſtice of Peace of *Middleſex.*

Reſol. The granting the warrant was illegal, and all the proceedings in *Mid. coram non judice.*

Nor have the Juſtices any power at their Seſſions in *Middleſex*, to make any order, the party living in another County. And he is not to be committed until an order made, and a refuſal to pay the twenty ſhillings a month, and if he refuſe this, then (for want of diſtreſs) to be committed, and not before.

By *Jones* and *Croke* Juſtices, it is reaſonable that he ſhould contribute to the maintenance of the child, he being of ability, but this is not the way to compel him. The Juſtices in *Suffolk* may make an order in it, and ſo cauſe the money to be ſent up.

Draper and Town of *Glenfield* in *Com. Leic.*

At Summer Aſſizes before *Hutton* and *Croke* Juſtices, was this Caſe; a grandmother being a perſon of ability, had a poor grandchild relieved by the ſaid pariſh, the grandmother marries with *Draper*; the queſtion was, whether *Draper* ſhould be taken to be a grandfather within the ſtatute of 43 *El. c.* 2. and ſo liable to maintain the child.

Reſol. That he ſhall, for that the wife after her marriage had no ability at all, her eſtate being a gift in Law to the husband.

By *Croke*, where the grandmother was of good ability at the time of the marriage, it is good reaſon the husband ſhould be charged, but not otherwiſe.

Mich. 7 *Car. Regis.* *Gerrard's* Caſe.

Gerrard married the grandmother being a poor widow, but had no means nor advancement at all by her, the husband alſo had but ſmall eſtate; but having been married eighteen or nineteen years, by induſtry of the wife are come to be of ability; and whether he ſhould provide for a poor grandchild of his wives was the queſtion.

Croke Juſtice, If grandfather and grandmother have no eſtate, they ſhall not be charged.

Secondly, if the grandmother have no means, and ſhe afterwards marry with one that hath, he ſhall not be charged with keeping this child.

But if the husband have ſufficient means with the grandmother in marriage, there he ſhall be charged during the life of the grandmother, and no longer.

If land deſcend to the grandmother after marriage, and the husband enjoys it in her right, here he ſhall be charged with the child.

When the wife hath ability at the time of marriage he ſhall be charged, becauſe by the marriage he hath gotten the means which the grandmother had, out of which the child is to be maintained, and ſo *tranſit cum onere.*

Whitlock Juſtice, The making the order againſt the grandfather in this Caſe was well, he being become of ability by the induſtry of his wife. *Croke contra;* The Juſtices differing in opinion, ordered a Trial at Law.

Town of *Kimalton* againſt *Layſtas.* 7 *Car.* at *Hereford* Aſſiſes 1621. *Stat.* 43. *Eliz. cap.* 2.

Winde and his wife dwelt at *Layſtas* five years; and after came into *Kimalton*, and did there rent a houſe for a year, and having children, the Town fearing they would be chargeable to them, they procure a Juſtice of Peace to charge the Landlord to warn them out of his houſe, or put in ſecurity to ſave the Town harmleſs; the Landlord put them out at the years end, and let his houſe to another.

Winde complains to the Juſtices, who order that the Town of *Kimalton* ſhould provide a houſe for him and his wife, paying a yearly rent, or elſe that the Overſeers of the poor do provide for them, which they refuſe

ſiſe to do; whereupon *Winde* complains to the Judges of Aſſiſe.

Reſolved by *Whitlock* Juſtice, That the order made by the Juſtices of the Peace was againſt Law, becauſe that *Winde* was neither poor nor impotent, he being able to work, and had means, and paid his rent: But *Winde* is to provide for himſelf where he can get a houſe; and he might when he pleaſed go again to *Laſſtas* where he formerly lived and had means.

Ad Aſſ. 19 Martii, 7 Car. Regis 1631. *Salop. Stat. 43 El. cap. 2.*

Margaret Brown was begot with child by *Gough*, the child born in *Drayton* in *Com. Salop* eleven years ſince, and *Gough* the reputed father took the child from the mother, and placed him at nurſe elſewhere, and after marries another woman, and dwells with her at S. *Chads*, the baſtard-child dwelt with him; afterwards *Gough* the reputed father dies, leaving his wife and divers children, and the ſaid baſtard child all poor, and maintained by the pariſh.

The mother of the baſtard hath been all this while in ſervice, but is a ſingle woman, able to work, and had three pounds left by friends, but not yet come into her hands.

Whether this baſtard ſhall be ſent to the Town of *Salop*, where he lived for ten years, or to *Drayton*, the place of his birth, or to his mother who is not able to maintain him.

Reſol. by *Jones* and *Whitlock* Juſtices, that this baſtard-child is to be ſent to his mother to be kept by her if ſhe be able, if ſhe be not, then to the Town of *Salop*, in regard he had been there formerly ſettled with his reputed father, and becauſe it is the place of laſt

ſetling, he being there for ten years, and the Law reſpects the place of laſt ſetling, as well as place of birth.

At the Aſſiſes, 28 *Julii*, 5 *Car.* 1629. *Stat.* 43. *Eliz. cap.* 2.

Dorothy Clavely with a child under the age of ſeven years, going about as a wanderer, came to *Arlee* in *Com. W.* and there deſired a Warrant to be conveyed to *Egleſhal* in *Com. S.* where the child was born; The Conſtable of *Arlee* made her ſuch a Paſs, and delivered her to the Conſtable of *Rippesford*, who delivered her to the Conſtable of *B.* in *Com. W.* whereby the way ſhe died; they ſent the child to *Rippesford*, they ſend it to *Arlee*, *Arlee* ſent it back to *Rippesford*.

Whether the pariſh where the mother died, or where the child was born was to keep the child?

Another Caſe, One being a wanderer with three children, born in three ſeveral pariſhes, came with them unto *Dale* in the pariſh of *Sale* unto one *Burton* her Siſter, where ſhe died, and left the three children there.

By *Jones* and *Whitlock* Juſtices, *&c.* That the children ought to be kept and provided for by the ſeveral pariſhes where they were born, and not in the pariſh where the mother died *in tranſitu*, and was ſo ordered accordingly, becauſe the place of birth is a ſetling of theſe children in a place certain; and the wandring of the mother afterwards with them doth not alter the Caſe.

Yeſol. alſo, that the place of birth, or place of laſt habitation, if the ſame be known, are in judgment of Law ſaid to be the places of ſetling. So that if a man be

be born in one parish, and afterward is an inhabitant and servant in another parish, and after this becomes a wanderer, he is here to be sent to the place of last setling, to be there kept and provided for.

Note. These children in the two last Cases were sent to the places of their births, as poor, not as wanderers, or vagabonds.

Note also, that the Statute of 39 *El.* 4. for punishing rogues, that the last proviso therein shall not extend to children under the age of seven years, for such shall not be accounted wanderers within this Statute.

At *Lincoln* Assises, 11 *Martii* 9 *Caroli Regis* 1633.

Upon complaint by Sir *Anthony Irby*, that the Assessments for the poor by the Town of *Boston* and Overseers were unequal.

By *Hutton* and *Croke* Justices; such assessments ought to be made according to the visible estate of inhabitants there both real and personal there, and not for what estate he hath in other parishes.

He also complained that he had divers tenants there, and that they taxed both him and his tenants.

Resolved, they are by statute, 43. *El.* 2. to assess the occupiers of Land, and not the lessor who receives the rent, the occupier being by law charged to pay that Sesment.

At *Worceſter* Aſſiſes, 11 *Martii* 14 *Car. Reg.* 1638. *Stat.* 43 *Eliz. cap.* 2.

Inter Vill. de Suckley, & Vill. de Whitborn.

William Chapel a Creeple born in *Whitborn*, twenty years ſince he went from thence and dwelt in *Suckley*, and paid rent for a houſe. And afterwards he came to the Town of *Luſton*, and there continued twenty weeks, and wrought as a Labourer in a quarrey of ſtone, and by a fall of a ſtone his back was broken, and ſo he was made impotent, and there was taken as a vagrant wandring and begging; upon this he was ſent to *Whitborn* where he was born, but they refuſed to receive him.

By *Jones* Juſtice: if he did beg and wander at *Luſton*, he is then by the Law to be ſent to *Whitborn* where he was born, and they ought to provide for him as one of their poor.

Note. At this time it was alſo reſolved, that if one great with child be ſent to the Houſe of Correction, and there ſhe is delivered, the child ſhall be ſent to the parish from whence the mother came, there to be provided for, it being the place where ſhe was laſt ſetled.

Nota. It was alſo reſolved, that a Rogue ought not to be ſent to the houſe of Correction, but he is to be whipped, and ſent to the place where he was laſt ſetled, if the ſame be known; otherwiſe to the place of his birth.

Houſe of Correction.

But the Houſe of Correction is for the poor of a parish

pariſh who refuſe to work, there they are to be whipped and ſet on work. *Vide* 39 *El.* 5. 7 *Jac.* 4. and *Dal.* 113.

Poſſeſſion actual and in Law.

If after the death of *A*, another man abateth or entreth into his houſe forcibly before the heir of *A* hath gotten an actual poſſeſſion indeed, the heir of *A* ſhall have no reſtitution, becauſe he had a poſſeſſion in law only. *Lam.* 153. *Dal.* 315.

Poſt-Office.

No perſon not conſtituted by Patent, ſhall exerciſe any thing belonging to the Poſt-Office, under forfeiture of five pounds for every offence, and a hundred pounds a week, to be recovered in the Kings Courts, &c. to the King and Informer. 12 *Car.* 2. 5.

If any fail of a ſufficient horſe in riding poſt, the Poſt-maſter-General forfeits five pounds, as aforeſaid. *Ibid.*

If the Mail or Packet ſhall not be carried out of *England* in an Engliſh Veſſel, the Poſt-maſter General ſhall forfeit an hundred pounds as before. *Ib.*

No perſon is capable of the Office of Poſt-Maſter General, without taking the Oaths of Allegeance and Supremacy before two Juſtices of Peace of the County. *Ibid.*

Power of the County.

Information of a Riot is a ſufficient cauſe to raiſe the power of the County, tho indeed there were none. *Lamb.* 315. *Dal.* 473. *Cro.* 62. b. *nu.* 22. & 64. b. *nu.* 49.

Power

Power of the County is raiſed without knowledge or information of a Riot; if when they come, they find one, it is lawful, and they may proceed to punish it. *Lamb.* 316. *Dal.* 195. *Crom.* 62. b. *nu.* 20.

Power of the County in ſuppreſſing a riot. *Vide* Riot.

The Juſtices of Peace, Sheriff or Under-ſheriff, in levying power of the County, may have the aid of all the Knights, and other temporal men under that degree that are above the age of fifteen, and able to travel, upon pain of impriſonment, fine, and ranſome to the King. *Dyer* 232. *Dal.* 198. *Law.* 315. *Cro.* 157. b. But it is referred to the diſcretion of the Juſtices how many or how few they will have, and in what ſort they ſhall be armed. *Dalt.* 199. *Lam* 315. *Crom.* 64. b. *nu* 49.

One Juſtice of Peace may take power of the County to ſuppreſs Rioters, and need not tarry till his fellows come. *Crom.* 157. b. *Dal.* 473. *Lam.* 181. 14 *H.* 7. 8.

A Juſt. of P. may have it to remove a Force. *Da.* 474.

The Sheriff or Officer, for apprehending a Recuſant.

So to execute the Kings Writ.

So to arreſt a Lord upon a *Supplicavit.*

So to take Felons, *&c. Dal.* 474.

Conſtable may take the aid of his Neighbour, to arreſt another upon an affray. *Cro.* 158. 2. *Lam.* 134. Felon, upon a warrant.

Sheriff upon a writ of execution returned that he could not execute it for reſiſtance, and was amerced twenty marks, becauſe he took not the power of the County. *Crompt.* 158. 2. *Lam.* 157. *Dal.* 314.

Preacher.

A ſilenc'd Miniſter preaching Sermon or Lecture, ſhall ſuffer three months impriſonment. 14 *Car.* 2. *c.* 14.

He

He that diſturbeth a Preacher of purpoſe maliciouſly or contemptuouſly in Sermon-time, is to be bound to his good behaviour, and have three months impriſonment. *Law.* 416. 1 *Eliz. c.* 3. *Dal.* 174.

If the diſturber of any Preacher be arreſted, and brought before any Juſtice of Peace, upon due accuſation, and examination heard, either by the arreſter or other perſon, he ſhall forthwith commit the party ſo taken to cuſtody by his diſcretion; and within ſix days after, another Juſtice joyning in examination, they upon confeſſion of the party, or conviction of two witneſſes, may commit him to priſon for three months. *Law.* 195, 333. 1 *Mar. c.* 3. *Dal.* 174.

Quære, if all the ſtatute of 1 *Mar.* 3. be not repealed by the general words at the latter end of the ſtatute 1 *El. c.* 2. *Dal.* 174. Sir *Nich. Hides* opinion cited, that it was wholly repealed.

Precept. Vide *Warrant.*

Præmunire.

Refuſal to take the Oath of the Kings Supremacy, the firſt offence is *præmunire*, the ſecond treaſon. 5 *El. c.* 1. *Law.* 411. 23 *El. c.* 1.

To aid, comfort, or maintain one that hath committed treaſon in uſing of Bulls, is *præmunire*. 23 *El. c.* 1. *Law.* 413. *Vide* Treaſon.

The Oath ſhall not be tendred twice but to ſuch as have Office or Miniſtry under the Biſhop, or that refuſe to obſerve Divine Service, or depraving the Rites and Ceremonies of the Church; or ſay Maſs. 5 *El.* 1.

To hold, ſet forth, or defend the power ſpiritual of any foreign Price, or perſon heretofore claimed, uſed, or uſurped within the Kings dominions, by writing, printing, preaching, expreſs deed, or act maliciouſly, or directly; or to put in uſe, or execute any thing to that end; the firſt offence is *præmunire*; the ſecond

treaſon.

treason. 1 *El. c.* 1. & 5 *El. c.* 1. Inquirable by words of 23 *El. c.* 1. & *Lam.* 411.

He which aideth any person that putteth in ure any bull, writing, or instrument of absolution gotten from the Bishop, or See of *Rome*, &c. to the intent to uphold the authority of the See of *Rome*, incurreth *præmunire*, 13 *El. c.* 2. & 23 *El. c.* 1. *Lam.* 413.

To bring from the Bishop, or See of *Rome*, or any claiming authority from it, any *Agnus Dei*, Crosses, Pictures, Beads, Grains, or such like superstitious things; or to deliver, or offer them, or cause to be delivered or offered to any of the Kings subjects, to use or wear in any wise; or receive them to such intent, and not to apprehend the offender, or within three days disclose him to the Ordinary, or other Justice of Peace, or within one day deliver things received to a Justice of Peace. 13 *El. cap.* 2. & 23 *El. cap.* 1. *Lam.* 414. *Dal* 333.

The forfeiture in cases of *Præmunire* upon the Statute of 16 *R.* 2. is to forfeit his lands and tenements in fee for ever; his lands in tail for his life; and all his goods and chattels; and to have a perpetual imprisonment; and to be out of the Kings protection. *Crom.* 14. a. *Dal.* 333. But *quære*, if he be attainted upon 27 of *E.* 3. 1. if he appear at the day of the *præmunire* returned. *Dal.* 336. *Br. Præmunire* 6. *Coo.* 11. 34. *Inst.* 129. & 130. at large.

A man may not kill him which is attainted in the *præmunire*, by 5 *El. c.* 1. but before he might, for they were out of the Kings protection. *Cro.* 15. a. b. *Dal.* 340.

One lawfully imprisoned until the next Sessions, for refusing the Oath of Allegeance, and there again refusing it, incurrs a *præmunire*, except married women, who are only to be imprisoned without bail. 3 *Jac. c.* 4. & 7 *Jac. c.* 6. So of Supremacy. 5 *El.* 1. *Dal.* 184.

Justice of Peace not disclosing, nor certifying within fourteen days, the name of him which bringeth any

any *Agnus Dei*, Croſſes, or Pictures, to one of the Kings Council. 13 *El. cap.* 2. is *Præmunire*. *Lamb.* 155, 372. *Dal.* 333.

Brokers of bargains contrary to the ſtatute of 37 *H.* 8. *c.* 9. againſt uſury, ſhall be puniſhed as Counſellors, Attorneys or Advocates in caſe of *præmunire*. 39 *El. c.* 18. 13 *El. c.* 8.

Delivering or ſending any relief to a Jeſuit, Prieſt, or other remaining in any College of Jeſuits, incurreth *præmunire*. 27 *El. c.* 2.

Staying or delaying an action upon the Statute of Purveyance (12 *Car.* 2) by any power but of the Court where the action is depending, incurs a *præmunire*. 13 *Car.* 2. 24.

Maliciouſly and adviſedly by writing, printing, &c. affirming, that the Parliament begun *November* 3, 1640, is not diſſolved; or ought to be in being; or that there lies any obligation upon any perſon from any Oath, Covenant, or Engagement, to endeavour a change of Government; or that the Houſe (or Houſes) of Parliament have a Legiſlative Power without the King, &c, incurrs the penalty of a *Præmunire*, being proſecuted in ſix months after the offence, and indicted in three months after proſecution.

Preſentment.

Preſentment is a declaration of the Jurors or Officers, without any Bill offered before. *Lam.* 485.

It differeth from an Indictment, which is the verdict of the Jurors that be charged to enquire of that offence, which is offered. *Lam.* 486.

There is another ſort of preſentment; and that is in Court of the Copy-holders of a ſurrender of a Copy-hold out of Court, and ſometimes of a Free-hold by particular cuſtom. 4 *Co.* 29. b.

For

For falſe weights muſt have in it; that the offence is within the juriſdiction, if in a Court Leet; at leaſt it is the better way. *Hob.* 129.

What ſhall be a good Preſentment.

Preſentment at a Seſſions, where the ſtyle is in the name of three, and the preſentment taken by two. *Lam.* 383.

Preſentment where ſome of the Jurors be allied, or of blood to him that procureth the Indictment; but it is no diſcretion in the Juſtices, to ſuffer ſuch to be impanelled. *Lam.* 398.

Preſentment of a Jury of an Hundred, of an offence done in another Hundred. *Lam.* 399.

Conſtable preſents a fault at the Seſſions which belongeth to his Office, which is allowed by the Inqueſt, it is good: otherwiſe it ſhall not ſerve for an Indictment. *Cro.* 125. b.

Conſtables, Church-wardens, Ale conners, Sidemen, may preſent all offences contrary to 4 *Jacob. cap.* 5.

Preſentment, where all were not ſworn, if the Record be that all were ſworn. *Lam.* 399.

Preſentment in a Leet for a Nuſance muſt be *ad nocumentum Ligeorum Domini Regis.* 2 *Cro.* 338.

So *ad commune nocumentum* of the Commoner is not good, being a private Nuſance. 9 *Co.* 113.

Where the Declaration of the Officers of the Seſſions ſhall have the force of a Preſentment.

A Juſtice of Peace upon his own knowledge of offences againſt the ſtatute of 2 & 3 *P. & M. cap.* 8.

& 5 *El. c.* 13. of High-ways. *Dal.* 99. *Cro.* 125. b. 195. 2. *nu.* 5.

Searchers appointed to examine the true making of tile. 17 *Ed.* 4. *c.* 1. *Lam.* 308.

Conſtable for ſundry points in the ſtatute of *Winceſter.* 13 *Ed.* 1. *Lam. ib.*

Amendment of a preſentment. *Vide venire facias. Vide* Eſcape.

Prieſts. Vide *Jeſuits.*

Principal and Acceſſary. Vide *Acceſſary.*

Priſon.

Impriſonment, is the putting of a perſon from his liberty into the cuſtody of the Law, to anſwer to that which ſhall be objected. *Lam.* 128 *Dal.* 466.

A man is in priſon ſo long as he is in ſight of his Goaler, tho he break away. *Dal.* 379. *Dyer.* 440.

No man ſhall commit another to priſon except he be a Judge of Record. *Dal.* 647. 10 *Co.* 103.

Conſtable impriſoning a ſuſpected for felony, may lock the ſtocks, and put Irons on him, and in conveying him to the Juſtice or Goal, may pinion him, or otherwiſe make him ſure that he cannot eſcape. *Dalt.* 473.

Impriſonment for a year of a Servant aſſaulting his Maſter, &c. *Vide* Aſſault.

Coroners are Judges of the Outlawry, and Conſervators of the Peace, and may in ſome Caſes commit to priſon. *Lam.* 365.

One committed to priſon for refuſing to find ſureties for the Peace, ſhall remain there till he freely offer and find them. *Lam.* 93. *Dal.* 271, 272.

Impriſonment

Impriſonment by the Juſtices of Peace is generally but till he hath made fine for the King, unleſs for the Peace, Good Behaviour or Felony, &c. *Dal.* 472.

One committed for denying to find ſureties for the Peace, may not be delivered upon the death or releaſe of the party, without help of the Seſſions or Goal-delivery. *Lam.* 93. *Quære Dal.* 272.

One was impriſoned till he made fine, for that he ſtood by whilſt one was ſlain, becauſe he did not his beſt to attach the murderer. *Lam.*132.

The Sheriff or Goaler may impriſon in his houſe, or in the Common Goal at pleaſure. *Dal.* 470. *Quære Cro.* 169. b. *Lam.* 133.

Conſtable cannot impriſon in his houſe, but in the ſtocks, and that but until he may provide convenient aid to convey him to the Juſtice of Peace, or to the Goal. *Dal.* 470. *Lam.* 133.

Juſtice of Peace cannot commit Felons to priſons which be not common Goals, (not to the Counter in *London*) nor make a Goal of their own houſes. *Lam.* 133. 5 *H.* 4. *c.* 10. *Cook* 9. 119. b. 23 *Hen.* 8. *cap.* 2. *Dal.* 478.

Juſtice of Peace may commit to the ſtocks ſome offenders againſt certain penal ſtatutes. *Dal.* 470.

Three Juſtices of Peace ſhall ſettle fees for Commitments, Diſcharge, and Chamber-Rent, one being of the *Quorum.* 22, 23 *Car.* 2. *Vide* Arreſt.

Juſtices of Peace ſhall examine and find out Legacies and gifts to poor priſoners; and with the Circuit Judges confirm the fees, &c. writ in a Table, and hung up in the priſon. *Ib.*

Breach of priſon is the eſcape of a Felon, tho not indicted, out of the Goal, Stocks, or poſſeſſion of any Keeper. *Lamb.* 229. *Dal.* 378. *Dyer* 99.

One impriſoned upon a *Capias pro fine* is to be delivered upon payment thereof. *Lam.* 574. or upon pledges by Recognizance for payment thereof. *Lam. ib.*

Priſoners.

A Feme Covert may be impriſoned for a Force or Riot.

An Infant ſhall not be impriſoned, nor ſuffer any corporal pain (tho of years of diſcretion) for an offence againſt a ſtatute, unleſs expreſly named.

But he ſhall find ſureties for the Peace, or be committed till he do.

In caſe the ſtatute appoints no time of commitment, it is to be preſently; as in caſe of force, upon the Juſtices view. *Dal.* 471.

So when the ſtatute limits not how long, it muſt be at the diſcretion of the Court. *Ib.*

Every one who is under arreſt for felony, is a priſoner as well without priſon, as in the ſtocks; in the high way; or in the poſſeſſion of him that arreſted, or hath the keeping of him. *Dal.* 378, 466, 377.

To break priſon is felony, being committed for felony. *Lam.* 228, 424. *Dal.* 377.

It is no matter whoſe priſon is broken, whether the Kings or other perſons, whether it be common or private goal, or the Conſtables houſe, or others houſe who hath the cuſtody of him for felony. *Dalt.* 378. *Stam.* 31.

Reſcous to help a priſoner committed for felony to get away, is felony. *Lam.* 229, 424. *Dal.* 378.

If an Officer or other whatſoever by his wilful default ſuffer a priſoner to eſcape, it is felony. *Lam.* 229, 424. *Dal.* 378.

Priſon-breach is to eſcape out of the ſtocks, or out of any mans poſſeſſion. *Lam.* 229.

A Conſtable voluntarily ſuffereth a thief to drown himſelf; it is felony in the Conſtable *Dal.* 379 But if the thief, kill, hang, or drown himſelf, it is a negligent eſcape. *Dal.* 379.

Priſoner of ſufficient ability ſhall bear his own charges, and of them that ſhall be appointed to guard him to the goal, and he refuſing, the Conſtable of the Pariſh where he dwelleth, by warrant from the Juſtice that committed him, may levy the ſame by diſtreſs and ſale of his goods after apprizement by four of the pariſh, the overplus to be delivered to the owner. 3 *Jac. c.* 10. *Dal.* 471.

Priſoner not of ability, and thoſe that guard him, to have their charges from the place of apprehenſion to the goal, born by the pariſh where he is apprehended, the ſame to be equally taxed by the Conſtables and Churchwardens, and two or three of the Inhabitants, and allowed by the Juſtice of Peace. 3 *Jacob. cap.* 10, *Dal.* 471.

Any lawfully taxed for the charge of bringing a priſoner to the goal, and refuſing to pay it to the Conſtable or other Officer of the pariſh, by warrant from the Juſtice of Peace that committed him, may levy the ſame by diſtreſs, and (after apprizement by four of the pariſh) ſale of the goods, giving the owner the overplus. 3 *Jac. c.* 10. *Dal.* 179, 471.

Juſtices at the Seſſions may provide a ſtock of materials to ſet poor priſoners a work; rating no pariſh above ſix pence a week. 19 *Car.* 2. 4.

Sick priſoners removed by conſent of four Juſtices. *Ibid.*

Defendant in any action for a diſtreſs taken by force of the ſtatute of 3 *Jac. c.* 10. may plead not guilty, and give the ſpecial matter in evidence, and upon recovery or non-ſuit, ſhall have treble damages. 3 *Jac. cap.* 10.

Priſoners diſcharged by Juſtices of Peace who take the Indictment to be void, may be ſtayed, if they change their opinion before judgment. *Lam.* 540.

A man outlawed for felony is impriſoned amongſt Traytors, and breaking priſon, ſetteth them looſe; this is reſcous of a traitor, and treaſon. *Cro.* 35-2. *nu.* 5, 6. *Vide*

Vide plus in Tranſportation.

Privy Seſſions. Vide *Seſſions.*

Proceſs.

Proceſs hath the name, becauſe it proceedeth, or goeth out, upon former matter, either original or judicial. *Lam.* 519.

It may be taken in a large ſenſe, and then it comprehends all the proceeding, Judgment, Commiſſion, Inditement, Inrollment, & *alia memoranda.* 8 *Co.* 157.

Suggeſtions and Informations, whether by word or writing, are but to ſtir up the Juſtices to commend the cauſe to the Inqueſt, and not to award proceſs upon them. *Lam.* 509. Unleſs it be in certain cauſes where it is eſpecially given them by ſtatute. *Ib.*

Authority to make proceſs upon Indictments, is given to the Juſtices by words of their Commiſſion; or by implication where the power of hearing and determining is given by their Commiſſion. *Lam.* 520. *Dal.* 548, 552.

So ſay ſtat. by expreſs words to one or more Juſtices out of Seſſions, upon Inditements and Informations found before them as in Forcible Entry, &c.

Vide Forcible Entry. *Dal.* 548, 549, 551.

So upon 27 *El.* for Sheriffs, &c. not taking the Oaths, they may award execution by *Fieri fac.* Attachment, *Capias*, and Extent.

Proceſs ought always to be in name of the King with *Non omittas*, &c. with *Teſte* of any two Juſtices under their hands, ſitting in Court. *Lam.* 520. *Dal.* 549, 550.

No proceſs, plea, or ſuit is to be diſcontinued by making a new Commiſſion of the Peace. 11 *H.* 6. c. 6. & 1 *Ed.* 6. c. 7. *Lam.* 520. See the end of 1 *Ed.* 6. c. 7.

Proceſs upon all Indictments of Treſpaſs againſt the Peace, or upon ſpecial ſtatute, is *Venire facias*; and if he be thereupon returned ſufficient, then a *Diſtringas infinite*; if he be returned *Nihil habet*, then *Capias*, *Alias*, *Pluries*, *Exigent*. *Lam.* 522, 523. *Dalton* 549.

Proceſs upon the Statute of unlawful Games, Liveries, Maintenance, Archery, &c. *Venire facias*, *Capias*, *Exigent*. 33 *H.* 8. *c.* 10. *Quere*, if it be not repealed by 37 *H.* 8. *c.* 7. *Lam.* 523.

So upon 4, 5 *P. M.* for Soldiers: for depraving the Sacrament, 2 *Cap.* and an Exigent into any County. 1 *Ed.* 6. 1.

Proceſs upon the ſtatute of Victuals; Attachments, *Capias*, *Exigent*. *Lam.* 523, 524.

Proceſs upon depraving the Sacrament, is *Capias*, *Exigent*, and *Capias Utlagatum*; and may be ſent by any three Juſtices into any Shire, one being of the *Quorum*. *Lam.* 524.

Juſtices of Peace may award proceſs into a foreign County againſt an accountant for money levied for making a Goal. 25 *Hen.* 8. *cap.* 5. 5 *El. cap.* 24. *Lam.* 525.

Juſtices of Peace where the ſervant departed, may award a *Capias* to the Sheriff of the Shire whereinto he departed, returnable before themſelves. 5 *El. cap.* 4. So where a decayed bridge is in one County, and the party or land chargeable do lie in another County. *Lam.* 525. 22 *H.* 8. *c.* 5.

One indicted of Treaſon or Treſpaſs in one County, is impriſoned in another; the Juſtices may award an *Habeas Corpus* to remove him before themſelves. *Lamb.* 526.

Proceſs upon Indictment of Felony may be ſent into any foreign County. 5 *E.* 3. *c.* 11. *Lam.* 527.

Proceſs upon Indictment of Felony, is two *Capias*, and an *Exigent*. 23 *E.* 3. *c.* 14. *Lam.* 528.

Indictment of Treaſon, Felony, or Treſpaſs in one County,

County, nameth the Indicted to be of another; the firſt proceſs ſhall go into the County where he is indicted, the ſecond to the County where he is named, to be returnable three months after; and if he be not to be found there, then that Sheriff to make proclamation at two County Courts before the return, that he appear before the Juſtices of the County where the Indictment is at the day in the *Capias*; and if he appear not, an *Exigent* to be awarded. 8 *H.* 6. *cap.* 10. *Lam.* 525, 526.

The two Juſtices of the Peace which have the overſight of the Sheriffs Books, and of the amerciaments, upon ſuggeſtion may make proceſs as in action of Treſpaſs againſt the offenders of that Statute to anſwer before them. 11 *H.* 7. *c.* 15. *Lam.* 360.

No proceſs is to be awarded by the Juſtices after outlawry, but they are to certifie the outlawry into the Kings Bench. *Lam.* 521, 522.

Proceſs upon Informations muſt be ſuch as the ſtatute whereupon they are grounded doth appoint. *Lam.* 528.

The Sheriff or his Miniſter that hath arreſted, or cauſed any fine, ranſome, or amerciament to be levied by reaſon of indictment or preſentment at the Sheriffs Turn, or Law-day without proceſs from the Juſtices, loſeth forty pounds. 1 *Ed.* 4. *cap.* 2. *Lamb.* 431, 511.

The Sheriffs name not endorſed upon the *Venire fac.* or *Diſtringas*; it is erroneous. 2 *Cro.* 188. 3 *Crom.* 587.

Informations made in the Seſſions, that an Ale-houſe-keeper hath done any thing whereby he hath forfeited his Recognizance, the Juſtices of the Peace may award proceſs againſt him, to ſhew cauſe why he ſhould not forfeit his Recognizance. *Lam.* 524. but *quære* what proceſs. *Lam* 524.

Proceſs cannot be awarded by the Juſtices of Peace upon any forfeited Recognizance, except Ale-houſes, but they muſt certifie them to the higher Courts. *Lam. ib.*

Proclamation.

For a Recuſant to render his body to the Sheriff before the next Seſſions, or Aſſizes, to convict him. *Vide* Recuſant.

Juſtices of Peace cannot acquit Felons by Proclamation, or without ſufficient acquittal; and if they cannot indict them, they muſt remain till the Goal-delivery. *Lam.* 549, 550.

The form of Proclamations to remove a force upon a Writ upon the Statute of *Northampton*. *Vide Lam.* 168, 169. *Dal.* 85, 86.

Conſtable, if any affray be dangerous, may make proclamation. *Lam.* 132. *Dal.* 36. maketh a *Quere*.

One Juſtice of Peace may make a proclamation in the Kings name to ſtay a riot. *Lam.* 183. *Quare* for the ſtatutes. 1 *M.* 12. 1 *Elizab. cap.* 19. are expired.

Juſtices of Peace at every Seſſions uſe to make proclamation, that if any will inform for the King, he ſhall be heard. *Lam* 520.

Proclamation annexed to the ſtatute of 4 *H.* 7. 12. is to be read every Quarter Seſſions, or every Juſtice preſent loſeth twenty ſhillings. 4 *H.* 7. 12. *Lam.* 633. *Quare* if of force now.

Promoters. Vide *Informers.*

Prophecying.

Propheſier by occaſion of Arms, Badges, *&c.* or of times, names, war, *&c.* with intent to make rebellion, diſſention, loſs of life, or other diſturbance in the Realm, being convicted thereof before the Juſtices of

of Peace upon accuſation in ſix months ſhall be impriſoned one year without bail for the firſt offence, and forfeit alſo ten pounds; for the ſecond offence impriſoned all his life, and loſe all his Goods and Chattels real and perſonal, and to be impeached within ſix months. 5 *El.c.*15. *Lam.*415, 416. *Dal.* 178, 179. *Quære*, if the Juſtices may impriſon out of Seſſions. *Dal.* 178.

Purveyors.

If Purveyors, Caterers, or ſervants of any man but the King, take any thing without the owners will, or as they can agree, and make preſent payment; it is felony. *Lam.* 231. *Dal.* 389. *Cro.* 48. a.

Purveyor ſhall not take Cart or other Proviſion of any Prelate, or Clerk. *Dal.*179.

Purveyor, his Deputy, Undertaker, or Servant, maketh purveyance without warrant of any thing above twelve pence, without conſent of the owner; it is felony. 2 & 3 *P. & M. cap.* 6. *Lam.*422. *Dal.* 388. *Cro.*48. a.

Purveyor taking any Carriage in other manner than is compriſed in his Commiſſion, it is felony. 36 *Ed.* 3. c.2. *Lam.*423. *Dal.*389.

Or any purveyance without Commiſſion under the Great Seal. *Dal.*388. *Cro.* 48. b. it is felony.

Or make purveyance of goods above twelve pence, without teſtimony and apprizement of the Conſtable, and four honeſt men of the Town, and without delivering Tales, or Indentures under his Seal, teſtifying his purveyance; it is felony. *Lam.*423. *Dal.* 388.

Quære, if it be but of the value of forty ſhillings, or under. *Quære* by whom the apprizement ſhall be made, and between whom the Indentures ſhall be made. *Dal.* 389.

To take more victuals or carriages for the Kings

houſe, than he ſhall deliver to the ſame houſe, is felony. *Dal.* 389.

To take ſheep in their wools betwixt Eaſter and Midſummer at ſmall prices, and to carry them to his own houſe to ſhear them. *Lam.* 423. *Dal.* 389. 23 *E.* 3. *c.* 15. is felony.

Quare, if the Felony of Purveyors by 36 *E.* 3. *c.* 6. be not altered by 23 *H.* 6. 1 & 2.

Purveyor taking any thing of the value of forty ſhillings, or under, without preſent payment, loſeth double the value of the thing taken; and the Conſtable upon requeſt made, not aiding him to reſiſt the purveyor ſo taking, loſeth double damages.

And any of the Kings Officers procuring any to be arreſted, or vexed for ſuch reſiſtance, loſeth twenty pounds. 20 *H.* 6. *c.* 8. & 23 *H.* 6. *c.* 2. *Lam.* 439.

Purveyor taking any thing of any man to ſpare him, is to be impriſoned two years, pay treble damages, and ranſome. *Lam.* 439. *Dal.* 389.

Purveyor taking corn by other meaſure than the ſtricken buſhel, or by any more than eight ſuch buſhels to the quarter, and that hath taken Carriages therefore without making ready payment, is to be impriſoned one year, and pay five pounds unto the King, and five pounds unto the party. 25 *E.* 3. *c.* 1. 36 *E.* 3. *c.* 3. & 1 *H.* 5. *c.* 10. *Lam.* 439.

Purveyor of timber or his Deputy, cauſing any timber to be felled fit for barking, but only in barking time, except trees for building or repairing the Kings Ships or Houſes, or having taken any profit by the lops, tops, or barks of any trees, or having taken from the owner any more of any tree than only the timber, loſeth forty ſhillings for every tree. *Lam.* 438. 439. 1 *Jac.* 22.

Dockets of Purveyors ought to be delivered over to the Juſtices of Peace at the next General Seſſions, and by the Juſtices to be certified to the Treaſurer of the Kings houſhold. 2 & 3 *P.* & *M.* *c.* 6. *Lam.* 614.

Purveyor

Purveyor taking any proviſion for the Kings Houſe by force of his Commiſſion, and ſelling away the ſame, his firſt taking is extortion; and he is puniſhable as a treſpaſſor, if not as a Felon. *Dal.* 387.

Undertakers, Deputies, Servants, and all other which under colour of the Kings Commiſſion to the Kings Purveyors do take any victuals againſt the ſtatute, are lyable to the pains therein mentioned againſt purveyors. 2 & 3 *P. & M. c.* 6. *Cro.* 48. b.

Juſtices of Peace are to certifie to the Treaſurer of the Kings Houſhold the Dockets of purveyors (brought to their Seſſions by Conſtables) that the ſerving of ſuch Commiſſions and the true anſwering of purveyances may be better examined thereby. *Lam.* 590. 2 & 3 *P. & M. c.* 6.

Putting out of Eyes.

Upon malice prepenſe to put out any ones eyes, is felony. 5 *H.* 4. *c.* 5. *Cro.* 49. 2. *Lam.* 256, 420. *Dalt.* 380. *Vide* Cutting out, &c.

Quarter-Seſſions. Vide *Seſſions.*

Rape,

Rape, or Raviſhment

WAs anciently puniſhed with loſs of Eyes and Privities. *Weſt.*1.c.13.

Deflowring of a Maid under ten years old, with, or without conſent, is felony without Clergy. 18 *El.* c. 6. *Law.* 256,421. *Dal.*393. *Cro.*47.b.

Raviſhing of a woman againſt her will, without conſent either before or after the fact; or being with force, tho after ſhe do conſent; is felony without Clergy. *Weſt.*2.c.34. 18 *El.*c.6. *Law.* 256,241. *Cro.*47. b. *Dal.*392.

If a Maid, after being taken away and raviſhed, gives conſent, and is married to the Raviſher; yet it is a Rape. *Dal.*392.

To be preſent and aiding the raviſher, is rape. *Law.* 258. *Dal.* 392. *Cro.*47. b. *Stam.* 24.

Deflowring of one kept as the Deflowers Concubine, is a good plea upon an Appeal, that it is no rape; otherwiſe of another mans Concubine. *Law.* 257, *Cro.* 47. b. *Stam.*24. *Dal.* 392.

Force without carnal knowledge is no rape. *Law.* 257,258. There muſt be *penetratio, & emiſſio ſeminis.*

See the ſtatute *de officio Coronatoris* made 4 *E.*1. Complaint muſt be made within forty days; but otherwiſe in an Appeal. *Dal.*392.

A woman that is raviſhed ought preſently to levy Hue and Cry, and to complain thereof preſently to ſome credible perſons. *Dal.* 392. *Cro.* 100. a. *Stam.* 22. in indictment of rape no time to be obſerved.

In Appeal and Indictment of Rape, the offender muſt

must be charged expreſly by the word [*rapuit*] 1 *Inſt.* 124.

To raviſh a woman, who conſenteth for fear of death, &c. is raviſhment; for conſent ought to be voluntary and free. *Dal.* 392. *Cro.* 48. 2.

Conſenting after rape doth not hinder but that the husband, and (if ſhe have no husband) the father or next of blood may purſue the raviſher, to have him convicted. *P. R.* 133. *Dal.* 392.

To take Maid, Widow, or Wife (having lands or goods, or being heir apparent) againſt her will; is felony without Clergy; and the abettors, receivers, &c. all principal felons. 39 *El.* 9. So if he marry, or deflower her afterwards. 3 *H.* 7. *Dal.* 392.

Taking and claiming a woman as Ward, is not within 39 *El. Ib.*

Taking away a Maid under ſixteen, without the conſent of Parents or Governors, or contracting marriage, or deflowring; is not felony, but long impriſonment without bail, or grievous fine. *Ib.*

Taking away a wife with her husbands goods, againſt hers or her husbands will, ſeems felony by *Weſt.* 2. 34. *Habeat Rex ſectam, &c. Vide* Woman.

Rates. Vide *Taxations.*

Rebellious Aſſemblies.

The ſtatutes 1 *M.* 12. and 1 *El.* are diſcontinued. *Dal.* 322.

Recognizance.

Recognizance is a bond of Record, teſtifying the Recognizor

cognizor to owe a certain ſum of money to ſome other, and the acknowledgment of the ſame is to remain of record, and none can take it, but only a Judge, or Officer of Record. *Dal.* 457.

Every Recognizance taken by a Juſtice of Peace, muſt be made by theſe words [*Domino Regi*] upon pain of impriſonment of any perſon that ſhall take it otherwiſe. 33 *H.* 8. *c.* 39. *Cro.* 196. *b. nu.* 11. *Lam.* 162. *Dal.* 276.

A Recognizance ſhould be, *quod conſervaret pacem*, but it was *gardaret pacem*, and yet adjudged good. 1 *Cro.* 390.

Sureties in Recognizances ought to be Subſidy-men, and they muſt be two beſides the party himſelf. *Lam.* 101. *Dal.* 276.

It is in the diſcretion of a Juſtice of Peace, if he take a Recognizance *ex officio*, to appoint or allow the number of the ſureties, their ſufficiency in goods and lands, the ſum of money, and how long he ſhall be bound. *Dal.* 275. *Lam.* 100.

If a Juſtice of Peace be deceived in the ability of the ſureties, he may compel the party to put in another. *Lam.* 100. *Dal.* 264, 278. But not where the Sureties die. *Ib.*

Recognizance of the Peace, without expreſſing in the condition that it was for keeping of the peace, ſeemeth void. *Lam.* 103. *Dal.* 278. *Coram non judice.*

So it is, if a recognizanee be, that a recognizor ſhall not maim or beat *A*, without expreſſing keeping the peace. *Ib.*

Recognizance comprehending no time of appearance, but generally to keep the peace, is good. *Ib.*

Recognizance for the peace upon a *Supplicavit*, is not of neceſſity to be returned until *Certiorari*. *Lam.* 109. *Dal.* 289, 277.

Recognizance taken to keep the peace againſt one eſpecially. *Quare* if it be good. *Lam.* 104. *Dal.* 277.

Recognizance taken to be levied only of the goods, or only of the lands of the cognizor, ſeemeth to

to be good enough. *Lambert* 104. *Dalton* 277.

Wife or Infant under the age of diſcretion are to be bound to the peace by their ſureties only. *Lam.* 101.

Recognizance taken *ex officio*, if default of appearance be made, may be removed by *Certiorari*. *Lam.* 109. *Dal.* 278.

Recognizance not forfeited, is diſcharged by Demiſe of the King, of the cognizor or the party ſuing for it, if it were againſt him alone. *Lam.* 113. *Dal.* 281.

The ſureties dying, the recognizance is good againſt the executors. *Ib.*

Recognizances taken, are to be certified notwithſtanding the Demiſe of the King, *Lam.* 103. or death of the recognizor, or of the party at whoſe ſuit it was granted. *Ib.*

The recognizance being forfeited, the Juſtices ſhall in diſcretion require new ſureties, or commit him to priſon. *Lam.* 114. *Dal.* 264.

Recognizance of the peace brought into the *Cuſtos Rotulorum*, and not purſued by the party, may be called upon for the King by the Clark of the Peace. *Ib.*

If the King and Recognizor be at iſſue, and the King waves the Iſſue; the recognizance is not diſcharged, but may be ſued upon a new breach. *Dal.* 281.

Juſtices of the Peace cannot award proceſs upon a forfeited recognizance, but it muſt be certified into the higher Court, except recognizance for Ale-houſes. *Lam.* 589. *Dal.* 278. *Cro.* 167. 2. & 196. b. *nu.* 9. and the cauſe of the forfeiture. *Dal.* 278.

Recognizances or examinations taken concerning ſuſpects or ſelons, are to be certified at the next general Goal-delivery. 2 & 3 *P. & M.* c. 10. *Lam.* 212.

Other recognizances muſt be certified at the next Quarter Seſſions. *Dal.* 459.

Recognizances taken by a Juſtice of Peace *ex officio*, are to be brought into the *Cuſtos Rotulorum* at the next general Seſſions. *Lam.* 109. *Dal.* 277. *Cro.* 139. 2. But no pain by the ſtatute of 3 *H.* 7. 1. if he do not. *Br.* Peace 11.

None

None but the King can pardon a recognizance once forfeited. *Lam.* 111. *Cro.* 140. b. *Dal.* 281. Nor the King himſelf, before a breach of a recognizance for the Peace.

Recognizance taken where the Juſtice hath no authority, is void. And taken by authority, if the Juſtice inſert other matter it is void. *Cro.* 196. b. *num.* 7. *Dalt.* 459.

A recognizance taken by a Juſtice of Peace is matter of Record, ſo ſoon as it is taken and acknowledged, altho it be not made up, but entred into his book; nay, altho it be not entred. *Dal.* 459. *Stam.* 77. b. *E. Brook Record.* 58.

For recognizances in ſeveral Caſes, taken by one Juſtice, or by two Juſtices. *Vide* Juſtice of Peace.

Vide plus in Fees.

Reconciliation. Vide *Treaſon.*

Records.

Records be nothing elſe but memorials or monuments of things done before Judges, that have credit in that behalf. *Lam.* 63.

If a record ſay any thing, no man ſhall be received to avet or ſpeak againſt it. *Lam.* 63. They import verity in themſelves. 12 *Co.* 24.

The Judges may correct or amend any record in the Term wherein the record is to be made, but after they have no power at all over them. *Lam.* 64.

The record or teſtimony of a Juſtice of Peace is in ſome caſes of greater force than an Indictment of a Jury, and againſt it the party ſhall not be admitted to traverſe. *Lam.* 65.

Embezelling of a record is felony, but not to be deal

dealt withal by Juſtices of Peace. *Lam.*231,549. Clergy taken away. 8 *H.6.*

Precepts for ſurety of the peace, ſpecial records for conviction of forcible entries, made out of the Seſſions, are not records of Seſſions. *Lam.*389.

Journals in Parliament, no records, but remembrances for form of proceeding to the record. *Hob.*210.

Records of cauſes determinable at the Seſſions, taken by the Juſtices of Aſſize at their Goal-delivery as Juſtices of Peace, are to be left with the Clerk of the Peace to be brought to the next Seſſions of the Peace. *Lam.*391.

One pleads a record before other Juſtices by way of juſtification, the Juſtices ought to give him day to bring in the record. *Lam.*555.

A Juſtice of Peace upon a Commiſſion being convicted by oath of twelve men of embezelling; wilful raſing of an Indictment, or malicioufly enrolling that for an Indictment which was not found; or changing an Indictment of Treſpaſs into an Indictment of Felony, loſeth his Office, and ſhall be fined and impriſoned according to his offence. *Lam.*631.

To raſe a record is felony; yet if a Judge do embezel or raſe a record, it is but miſpriſion in a Judge. *Dal.*386. *Br. Cor.* 174. *& Treaſon* 31.

And cutting or clipping the ſides, or any other part of the Roll, is included. 8 *H.6.* 3 *Inſt.* 72.

Embezelling of any record, writ, return, panel, proceſs, or warrant of Attorney in Chancery, Kings Bench, Exchequer Common Pleas, or Treaſury, is felony in the parties, their counſellers, procurers, or abetters. *Dal.*386. *Vide* Recogn. The Jury that try this crime, muſt be half of them Officers of Court.

But it ſeemeth that Juſtices of Peace have not to do with theſe Felonies. Lam. 549. Cro. 56. 8 *H.* 6. c. 12. Dal. 386. *for that theſe Records do not remain with the Juſtices of Peace.* Cro. Ibid.

Recuſants,

Recuſants.

Statutes now in force againſt Recuſancy of all ſorts, are 1 *El.* 1, 2. 8 *El.* 1. 13 *El.* 2. 27 *El.* 2. 29 *El.* directing the execution of the reſt. 3 *Jac.* 4, 5. 7 *Jac.* 2, 6. 3 *Car.* 2. 30 *Car.* 2. And 35 *El.* 1. againſt Sectaries, is declared to be in force by 16 *Car.* 2. 4. *Dal.* 182. Who are Recuſants, who are Sectaries, what Supremacy. *Vide Dal.* 181, 182.

In an Indictment upon 1 *El.* 2. it need not be averred, that the offender is an inhabitant, but it ſhall come on the other ſide. *Mahnocks* Caſe. *M.* 3 *Jac.* 1.

The words in 23 *El.* 1. [being thereof convicted] ſhall be intended in the ſame Action. Doctor *Foſter's* Caſe. *Co.*

The word [*exiſtens*] *viz. ætatis* 16 *annorum* in an Inditement upon 23 *El.* 1. ſhall go to the time of the offence, not indictment. *Talbots* Caſe. *More* 606.

Feme Coverts are within 1 *El.* 2. & 23 *El.* 1. as to the penalties for abſence from Church, and Information lies againſt the husband. *Laws* Caſe P. 13 *Jac.*

St. 1. *El.* extends to Holydays as well as Sundays; but 23 *El.* 1. and 3 *Jac.* only to Sundays.

Going to Church every Sunday muſt be as well to Evening, as Morning Prayers; an entire day, and entire ſervice. *Hut.* at the *Aſſ.* 1 *Car.*

Which are Holydays, *vide* 5, 6 *Ed.* 6. 3. and the Rubrick, confirmed by 14 *Car.* 2. 4.

A perſon having Service in his houſe, and going four times a year to a Church or Chappel, incurs no penalty. *Dal.* 192.

Wilfully abſenting themſelves from Church twelve months, contrary to 1 *El. c.* 2. and convicted, being of ſixteen years of age, are to be bound to the good behaviour,

haviour, upon Certificate of one Justice of Peace to the Kings Bench. 1 *El.* 2. besides other penalties; 23 *El. Dal.* 183.

Every Justice of Peace may give notice to any person, to forbear to receive or keep such as shall obstinately refuse to come to the Church by the space of a month together. 35 *El. cap.* 1.

Heir of a recusant being a recusant at his Ancestors death, conforming himself, and taking the Oath of Supremacy made 1 *El.* before the Archbishop or Bishop of the Dioceſs, shall be free from penalties or the recusancy of his ancestor. 1 *Jac. c.* 4.

Heir of a recusant being under sixteen years at the death of his ancestor, at or after sixteen years becomes a recusant; he is not to be freed of his ancestors penalties for recusancy, till conformity as aforesaid. 1 *Jac. cap.* 4.

Two parts of Popish recusants lands being seised for payment of twenty pounds a month, the third is not to be charged with it, but is to descend to his heir; and the two parts to remain in the Kings hands till he be satisfied thereof both for the ancestor and heir. *Ib.*

Any selling his children beyond the Seas out of the Kings Dominions to any religious house, to be instructed or strengthened in Popery, loseth an hundred pounds, and the person so going, or being there, and not returning within one year, and submitting, is disabled to inherit, purchase, or take any lands or goods in his Majesties dominions till conformity. *Ib.*

Estates in trust for benefit of any sent beyond sea to any religious house to be instructed in Popery, are void. *Ibid.*

Justices of Peace not certifying at the next Quarter Sessions the Oaths taken of any reconciled to the See of *Rome*, upon his submission, returning into the Realm, doth forfeit forty pounds. 3 *Jac. c.* 5. *Lam.* 633.

Forfeitures upon the statute of 1 *Jac. cap.* 4. against Popish recusants, half to the King, and half to the

ſuer in any the Courts of Record at *Weſtminſter* by action of debt, &c. 1 *Fac. c.* 4.

Popiſh Recuſant conforming himſelf in coming to Church according to the Law, and after convicted for not receiving the Sacrament once every year; loſeth for the firſt year twenty pounds; for the ſecond year forty pounds; for the third year ſixty pounds: and if after conformity in receiving the Sacrament, he offend therein, he loſeth for every offence ſixty pounds, one moiety to the King, the other to the Informer, to be recovered in any of the Kings Courts at *Weſtminſter*, or before the Judges of Aſſize, or Juſtices of the Peace at their Quarter Seſſions by action of debt, &c. 3 *Fac. c.* 4. *Lam.* 418.

Conſtables and Churchwardens, or, for want of them, the High-Conſtable once every year, are to preſent the monthly abſence of Popiſh recuſants from Church, with the names of the ſervants and children above nine years old, or loſe twenty ſhillings for every offence, and upon their conviction to have forty ſhillings out of their goods. 3 *Fac. c.* 4. *Lam.* 616.

Clerk of the Peace is to record the Preſentment of Conſtables and Churchwardens for monthly abſence from Church, without fee, or loſeth forty ſhillings. 3 *Fac. cap.* 4.

Offences upon any ſtatute for not going to Church, or receiving the Sacrament, may be heard and be determined by the Juſtices of Peace at their Quarter Seſſions, as Juſtices of Aſſize might before. 3 *Fac. c.* 4. *Lam.* 617.

Upon an Indictment for not coming to Church, or not receiving the Sacrament, Juſtices of the Peace at their Quarter Seſſions may by proclamation, command the Indicted to render his body to the Sheriff before the next Quarter Seſſions, or Aſſizes, and in default of appearance, then the ſame to be a ſufficient conviction. 3 *Fac. c.* 4. *Lam.* 616.

Popiſh recuſant convicted of not coming to Church according

according to Law, shall in Easter or Michaelmas Term next after the conviction, pay into his Majest. receit after the rate of twenty pounds a month, and so to continue without any other Indictment, till he conform himself; and in default of payment, all his goods and two parts of his Lands to be seised till conformity, leaving the Mansion-house to the third part. 3 *Jac. c.* 4.

The King seising two parts, may not let it to any recusant, nor for their use; and the Lessee must give security to the King not to commit waste. *Ib.*

A recusant shall not have an action for any thing seised into the Kings hand. 3 *Jac.c* 5.

Indictments against Popish recusants are not to be avoided for want of form, until conformity. 3 *Jac. cap* 4.

Justices of Peace may hear and determine all offences against the statute, 3 *Jac. cap.* 4. except Treason. 3 *Jac.c.*4. *Lam.*617.

Attainder of felony upon the statute of 3 *Jac.c.*4. of Popish recusants, barreth not dower, nor corrupteth blood. 3 *Jac. c.* 4.

Any pursued for doing any thing warranted by the statute of 3 *Jac.c.* 4. may plead the general issue, and give the special matter in evidence. 3 *Jac. c.* 4.

Husband is not chargeable with the forfeiture of the wife upon the statute of 3 *Jac. c.* 4. for not receiving the Sacrament; nor the wife after his death.

Popish recusant convict, coming to the Court where the King or his heir apparent is, without the Kings command or warrant in writing from the Council, loseth an hundred pounds. 3 *Jac.c.* 5. the one half to the prosecutor.

Recusants convicted, or other forbearing for three months to hear Divine Service, now dwelling in *London*, or within ten miles (except Tradesmen having no other dwelling) are to depart within forty days; and if they come to dwell there within three months, then to depart within ten days after conviction, and to deliver

their names to the Mayor of *London*, or the next Justice of the County; or lose an hundred pounds. 3 *Jac. cap.* 5. the moyety to the prosecutor.

Every one not repairing every Sunday to some usual place appointed for Common-Prayer, there to hear Divine Service, upon conviction within one month after default, upon confession, or oath of one witness, one Justice of Peace may call the offender before him, and if he cannot satisfie the Justice by excuse for his absence, the Churchwardens, by warrant from the Justice of Peace may levy twelve pence for every default by distress and sale of the offenders goods; and in default of distress, the Justice may commit him till he pay it, which is to be imployed for the poor. 3 *Jac. c.* 4. *Dal.* 183. *Coke* 11. 61. b.

They which harbour within their houses any (except parents or others to whose custody they are committed) or knowing the same, retain in their service any absenting themselves a month together from Church without reasonable excuse, lose ten pounds a month. 3 *Jac. cap.* 4.

The King, or five Lords of the Privy Council, may by writing under the hands of the Privy Council, license a Popish recusant confined within five miles, to travel out of his compass for such time as is contained in the license, without inserting any cause. 3 *Jac. c.* 5.

Popish recusant confined to five miles, informing upon oath four Justices of Peace that he hath necessary occasion to travel farther, and that he will make no causeless stays, they with the assent of the Bishop of the Diocess, Lieutenant or his Deputy, under their hands and seals, and specifying in their license the cause and time of travel, may by license under their hands and seals give liberty to him to travel forth of his compass, all other licences to be void; and any travelling without such license, not having taken such oath, shall forfeit as a recusant convicted by the statute of 35 *El. c.* 2. 3 *Jac. cap.* 5. *Dal* 109. *Lam.* 365. and any one of the four Justices

Juſtices may miniſter the Oath. 3 *Jac. cap.* 5. *Law.* 196.

Statute 35 *El. c.* 2. confining Popiſh recuſants to certain limits is hereby confirmed, and the proviſo for licenſing them to go beyond their limits is hereby repealed. 3 *Jac. c.* 5.

Popiſh recuſants convicted, are not to practiſe the Common or Civil Law, nor Phyſick, nor to execute any offices, places, or trades belonging to any of them; nor to be Miniſter or Officer in any Court, nor to have any place of command, or office in war, nor any office or charge in any Ship, Caſtle or Fortreſs of the Kings, on pain of a hundred pounds, one moiety to the King, the other to him that will ſue. 3 *Jac. c.* 5.

Popiſh Recuſant convicted, or whoſe wife is a Popiſh recuſant, during recuſancy not to execute any publick office or charge in the Realm. *Ib.*

Married woman being a recuſant convicted, whoſe husband is not convicted, not conforming her ſelf according to Law, forfeiteth to the King two parts of her dower, or joynture, and is diſabled to be executrix or adminiſtratrix to her husband. *Ib.*

Popiſh recuſant upon conviction is to be adjudged excommunicate to all intents, except in being able to ſue for or concerning his lands and leaſes not ſeiſed by the King. *Ib.*

Recuſant convicted, married otherwiſe than by a Miniſter lawfully authoriſed, and according to the orders of the Church, is diſabled to be tenant by Curteſie, or in Dower, or by Joynture, or to have widows eſtate, or frank-bank, or any part of her husbands goods, and marrying any, by whom he is not intituled to be tenant by the Curteſie, loſeth an hundred pounds, one moiety to the King, the other to him that will ſue. 3 *Jac. cap.* 5.

Child of a Popiſh recuſant not baptized according to the Orders of the Church within one month after the birth, the father or mother, if he die within the

month, loſeth an hundred pounds, whereof one third part to the King, another to the poor of the pariſh, and the third to him that will ſue. 3 *Jac. c.* 5.

Popiſh recuſant not excommunicated, buried otherwiſe than according to the orders of the Church, his executors or adminiſtrators knowing it, or cauſers of it; loſe twenty pounds, one third part to the King, one third part to the poor of the pariſh, and one third part to him that will ſue for it. *Ib.*

Popiſh recuſant convicted, during his conviction, to be from the ending of that Parliament diſabled to grant any advowſon, *&c.* or to preſent or nominate to any ſpiritual living, the ſame to remain to the Chancellors of the Univerſities of *Oxford* and *Cambridge*, according to the ſeveral Shires limited in that Statute, ſo that they preſent none having a former benefice with Cure; if they do, the ſame to be void. *Ib.*

Penalties upon the ſtatute of 3 *Jac. c.* 5. againſt recuſants, to be recovered in any his Majeſties Courts of Record by action of debt, bill, plaint, or information, without eſſoin, protection, or wager of Law. *Ibid.*

Married woman under Baroneſs, convicted of not coming to Church, and of not receiving the Communion, who doth not within three months after conform herſelf, to be committed by two Juſtices of the Peace, one being of the *Quorum*, until conformity; unleſs her husband pay ten pounds a month to the King, or the third part of his lands. 7 *Jac. c.* 6.

The penalty of twelve pence, and of twenty pounds a month, ſhall be both of them payed by a recuſant convict. *Dal.* 106. 11 *Co.* 63. b. 91.

Two Juſtices of the Peace may require a convicted recuſant of ſmall ability, who repaireth not to the place of his dwelling, or place of his birth, there to notifie himſelf to the Miniſter and Conſtables according to the ſtatute of 35 *El.* or afterwards removeth five miles from the ſame (if upon apprehenſion he conform not himſelf

himſelf within three months) to abjure the Realm, and aſſign him his time and haven. 35 *El. cap.* 2. *Dal.* 109.

The Form of the Oath.

You ſhall ſwear you ſhall depart this Realm of England, *and all other his Majeſties Dominions, and that you ſhall not return hither or come again into any of his Majeſties Dominions without licenſe of our Soveraign Lord the King, or of his Heirs: So help you God.* Dal. 105. Stam. 119.

Every ſuch recuſant that refuſes to abjure; or after abjuration doth not within the time appointed go to ſuch haven and depart; or after ſuch abjuration returns without his Majeſties ſpecial licenſe; in every ſuch caſe ſhall be adjudged a Felon. 35 *El. c.* 2. *Dalt.* 185. *Law.* 419. 1 *Jac c.* 25.

The Juſtices of Peace before whom ſuch Abjurations ſhall be made, muſt preſently cauſe the ſame to be entred of record before them, and certifie it at the next General Goal-delivery in the ſaid County. *Ibid.*

No Juſtice of Peace or other Officer ſhall be capable to execute, or hold their place; and no perſon ſhall ſue, be Guardian, Executor, or Adminiſtrator, &c. who ſhall not take the Oaths of Allegeance and Supremacy, and make the Declaration againſt Tranſubſtantiation after the receit of the Sacrament (whereof he ſhall then have Certificate under the Miniſters and Churchwardens hands, and make proof by oath of two witneſſes) but ſhall forfeit five hundred pounds if he doth exerciſe ſuch Office. 25. *Car.* 2.

The Form of the Declaration is,

I &c. *Declare that I believe there is not any Transubstantiation in the Sacrament of the Lords Supper, or in the Elements of Bread and Wine, at, or after the consecration thereof by any person whatsoever.* Ib.

No Peer or Member shall vote, or sit during any debate in Parliament, unless they first take the Oaths of Allegeance, and Supremacy, and make (and subscribe) this Declaration,

I &c. *Do solemnly and sincerely in the presence of God, profess, testifie and declare, that I do believe that in the Sacrament of the Lords Supper there is not any Transubstantiation of the Elements of Bread and Wine into the Body and Blood of Christ, at, or after the consecration thereof, by any person whatsoever: And that the Invocation, or Adoration of the* Virgin Mary, *or any other Saint, and the Sacrifice of the Mass as they are now used in the Church of* Rome, *are superstitious, and idolatrous. And I do solemnly in the presence of God profess, testifie, and declare, that I do make this Declaration, and every part thereof, in the plain and ordinary sense of the words read unto me, as they are commonly understood by English Protestants, without any evasion, equivocation, or mental reservation whatsoever, and without any dispensation already granted me for this purpose by the Pope, or any other authority or person whatsoever, or without thinking that I am or can be acquitted before God or man, or absolved of this Declaration, or any part thereof, altho the Pope or any other person, or persons, or power whatsoever, should dispence with, or annul the same, or declare that it was null and void from the beginning* Ib.

And

And these Oaths and Declaration shall be made and subscribed in every Parliament by every Peer and Member at the Table in the Middle, before he take his place in a full House. *Ib.*

No Peer of this or the other Kingdoms, *&c.* not having taken the Oaths, *&c.* and no Popish Recusant convict, shall come into the presence of the King, and Queen, or into the House where they reside, during the King, and his Successors Reigns; under the penalties and disabilities before mentioned, unless such Peer, *&c.* do respectively the next Term take the Oaths, *&c.* in Chancery. *Ib.*

Vide Stat. 30. *Car.* 2.

The Bishop of the Dioceſs, or any one Justice of Peace, or Minister of the Parish where such convicted Recusant shall be, may require his submission. *Ibid.*

Vide the form of submission of Sectaries, by 35 *El.* 1. and of Recusants by 35 *El.* 2. *Dal.* 186, 187.

Justices of Peace at their Quarter Sessions may inquire, hear and determine of all Recusants, both for not coming to Church, and not receiving the Sacrament according to Law, as Justices of Assize and Goal-delivery may do, and at the Sessions (in which such Indictment shall be taken) make proclamation to render their bodies to the Sheriff, and before the next Quarter Sessions, at which if the offender make not appearance of Record, it shall be a conviction. 3 *Jac. cap.* 4. *Lam.* 616.

Popish Recusant convicted, is disabled to be Executor, Administrator, or Guardian, the Guardianship is to go to the next of kin to whom the land should not come, being no Recusant; and he to account to the Heir, as the Case shall require. 3 *Jac. c.* 5.

Recusants Armor, Gun powder and Munition, by warrant of four Justices of Peace in their General Sessions, shall be taken from them, (other than necessary weapons allowed by the said Justices for their defence) and kept at the Recusants costs, where the Justices shall appoint.

appoint. And the Recuſant, refuſing to tell what Armor he hath, or diſturbing the delivery thereof, forfeiteth the Armor, and is to be impriſoned for three months without bail. 3 *Jac. c.* 5. *Lam.* 617, 618.

The penalty of reconciling, and being reconciled to the Church of *Rome*, *vide* in Treaſon.

Regrator

Is he, that buyeth live or dead Victuals, Tallow, or Candles in the Market, and ſelleth the ſame there, or within four miles. 13 *El. c.* 25. *Lam.* 450. 5 *Ed.* 6. *c.* 14. 5 *El c.* 12.

Releaſe.

Juſtice of Peace compelleth one, of his own motion to give ſecurity of the peace until a certain day, he may by like diſcretion releaſe it before the day. *Lam.* 110. *Cro.* 139. b. *nu.* 16. *Dal.* 289.

Party bound generally to keep the peace without any day limited, it is for life, and no man can releaſe it. *Lam.* 110. *Dal.* 289. *Cro.* 142. b. *Brook Peace* 17.

Recognizance is taken at the ſuit of *A*, to keep the peace againſt him only, *A* may releaſe it before the ſame Juſtice, or any other that will certifie it. *Lam.* 110. *Dal.* 289. *Cro.* 139. b. *nu.* 10. 169. 2. That Releaſe being certified at the next Quarter Seſſions, will diſcharge the party bound of his appearance, ſo that he ſhall not be called upon for his recognizance. *Dal. ibid. Crom.* 139. b. *nu.* 15.

Recognizance is taken *verſus cunctum populum*, *præcipue verſus A*, yet *A* may releaſe it before any Juſtice. *Tamen Quære. Lam.* 110. *Cro.* 142. b. *Bro. Peace* 17 *Dal.* 280.

Recognizance is taken by diſcretion, or upon ſuit, the

the King cannot releaſe or pardon it before forfeiture. *Lam.* 111. *Cro.* 140. b. 141. a. *Dal.* 281.

The peace being releaſed, the recognizance muſt not be cancelled, but certified at the Seſſions with the releaſe, leſt peradventure the peace was broken before the releaſe made. *Lamb.* 111. *Cro.* 139. b. *nu.* 16. 169. a.

Whether the good behaviour taken upon complaint, may be releaſed by any ſpecial perſon. *Quare Lamb.* 103.

Neither the Juſtice of the Peace, nor the party can diſcharge a recognizance of the Peace by releaſe out of Seſſions: for firſt, the recognizance is made to the King, and therefore none but the King can releaſe or diſcharge it. Secondly, the recognizance is taken for the parties appearance, and the releaſe cannot diſcharge the appearance. *Dal.* 280. *Br. Peace* 17.

The appearance is requiſite, notwithſtanding any releaſe made: firſt, for the ſafety of the recognizance: ſecondly, that others may object in open Seſſions, if he have broke the peace, that he may be indicted thereupon. *Dal.* 281.

E contra Cro. If the Juſtice of Peace at the Seſſions do certifie the releaſe, by this the obliged is diſcharged, and ſhall not be called upon for his recognizance, nor his default recorded: for the principal cauſe of the recognizance was the keeping of the peace, which is diſcharged by the releaſe certified at the Seſſions, and then the appearance is but acceſſary to the ſame, and the intent is only that then he ſhould find new ſurety, if the party will not releaſe; and this is the common uſage. *Cro.* 139. *nu.* 15.

The form of the releaſe, *vide Dal.* 518, 519.

Vide plus in Recognizance, Forfeiture.

Religious

Religious Houſes.

The owner of the Site of a Religious Houſe diſſolved, in yearly value under two hundred pounds, muſt keep a continual houſe there, or loſe twenty Nobles a month, to be enquired of, and determined at the Quarter Seſſions. 27 *H.* 8. *c.* 22. 5 *El. c.* 2. *Lam.* 471.

Replevin. Vide *Bailment.*

Reſcous of a Felon.

Reſcous is to help a priſoner to get away; and if it be a felon, it is felony. *Lam.* 229. *Dal.* 378.

Reſcous of a Felon before arreſt, is no felony: otherwiſe after arreſt. *Lam.* 230. *Dal.* 378. *Quæ Stamf.* 31.

Reſcuing a priſoner going to the Gallows, is felony. *Dal.* 378.

A warrant being granted by a Juſtice of the Peace for unlawful hunting of Deer or Conies, to make reſcous thereupon; is felony. *Dal.* 387.

Reſcous againſt an Officer, or perſon authorized to execute the Statute of 39 *El. c.* 4. of Rogues, loſeth five pounds, and is to be bound to his good behaviour. *Dal.* 218.

If a ſtranger take one out of priſon with the priſoners aſſent, if he be in for felony, it is felony by the Common Law in the reſcuer, and he is a principal by the ſtatute *De priſonam frangentibus. Cro.* 38. 2. *nu.* 2.

One is in the ſtocks for ſuſpicion of felony, and is let out by a ſtranger; it is felony, altho the party who eſcaped, is not indicted. *Cro.* 35. 2. *nu.* 3.

An Action of the Caſe lies for the recoverer in

in Debt againſt the reſcuer; and ſo for the Sheriff againſt the reſcuer. 1 *Cro.* 109. *Hob.* 180.

Reſcue of a diſtreſs in the High-way is lawful. 1 *Inſt.* 160.

To reſcue one taken by the Sheriff upon ſuſpicion of Felony, without a *Capias*, is no felony.

Reſtitution of Poſſeſſion.

None ſhall have reſtitution, but ſuch as are put out of houſe or land. *Dal.* 314. *Cro.* 162. b. *Lam.* 153. Not Executors of Leſſee for years. *Dal.* 316.

If it be found upon Inquiry, that any have entred, or held with force, contrary to the ſtatute. 8 *H.* 6. *c.* 9. the Juſtice of Peace may reſeiſe, and put the party ſo put out in full poſſeſſion. *Cro.* 161. b. *Dal.* 314. but the putting out muſt firſt be found. *Lam.* 152. *Cro. Jac.*

The Juſtice of Peace need not ſtay, or ſtand upon the right, or title of either party. *Dal.* 312. *Cro.* 164. 2.

No reſtitution is to be made where there was only a poſſeſſion in Law. *Lam.* 153. *Dal.* 315.

In a reſtitution it is not enough that the putting out be found, unleſs the Indictment do alſo contain in it, *Adhuc extra tenet.* *Dal.* 313 *Cr.* 163. b *Lam.* 153.

Reſtitution ought to be made to none other than the party put out. *Dal.* 315. *Cro.* 162. b *Lam.* 153.

After the entring or detaining with force found, the Juſtice of Peace may by himſelf, or precept to the Sheriff, under the teſtimony of himſelf alone, reſtore the party grieved to his poſſeſſion. *Dal.* 314 *Lam.* 156. *Dy.* 187.

None can make reſtitution but they before whom the Indictment is found, but the Juſtices of the Kings Bench, either upon certificate made by the Juſt. of Peace before whom it was found) of the preſentment; or if the

the said presentment, or indictment be removed by *Certiorari*. *Dal.*314. *Lam.*157. 158.

If the Sheriff return upon a precept, or writ of restitution, that he cannot make restitution for resistance, he shall be amerced, for he may take the power of the County. *Dal.* 314. *Lam.* 158. *Cro.* 163. b.

Justice of Peace before whom the presentment was made, dieth before restitution; *quare*, whether the Justices at the Sessions can award it. *Lam.* 157.

Justices of Peace ought not to award restitution where the Indictment is insufficient in Law, either in matter or form. *Dal.* 312, 317.

In the Indictment, 1. Not only an entry must be, but also a putting out. 2. The Indictment must express the quality of the thing, (*viz.*) whether it be messuage, cottage, meadow, pasture, wood, or land arable. 3. It must say, *Et adhuc extra tenent.* 4. *Expulserunt & adhuc extra tenent.* 5. One of these two words, *manu forti.* or *cum multitudine.* *Dal.*312,313. *Cro.*169. b. 163. b. *Lam.*153.

If error or insufficiency be in the Indictment taken before Justices of Peace, and restitution awarded, any two Justices of those that were present at the taking thereof may at another Sessions, or without Sessions grant a *Supersedeas*, if the Sheriff have not made restitution before. *Dal.*313. *Cro.* 162. 2.

If restitution be made by Justices upon an insufficient indictment, and it be removed into the Kings Bench, the Court will restore the party put out by the Justice of Peace. *Dal* 313. *Cro.*168. 2.

The disseisor outed by force by the disseisee, shall be restored. *Lam.*148. *Dal.*315.

Causes to stay Restitution.

1. No restitution upon an Indictment to be made, if the party indicted hath had the occupation, or been in quiet possession three years together next before the day of

of the Indictment found, and his eſtate not ended, which the party may alledge for ſtay of reſtitution, until it be tryed, if the other will traverſe or deny the ſame. 31 *El. cap.* 11. *Dal.* 316, 317.

2. *Certiorari.* *Dal.* 316.

3. A Traverſe, *Ib. Quære Lam.* 158.

4. Inſufficiency of the Indictment. *Dal.* 317.

5. Inſufficiency of the Jurors not having forty ſhillings land by the year. *Dal.* 317. *Lam* 152. *Cr.* 165. b. *Quære.*

Juſtice of Peace upon Indictment found, may give reſtitution as formerly to free-holders, to tenants for years by copy of Court, Guardians in Knights-ſervice, tenants by *Elegit*, Stat. Merchants or Staple. *Dal.* 316. 23 *Jac. c.* 15.

The particular tenant (for years, or a Copy-holder) ſhall have reſtitution, tho the reverſioner, or Lord wave it.

The Lord commanded three to enter with force upon his Copy-holder; they did; Inditement was brought, *quod expulerunt* the Copyholder; and diſſeiſed the Lord; who oppoſed the reſtitution, for that it was to be made in reſpect to the Freehold: yet the Court granted it to the Copyholder; for it will reform the wrongs in their ſeveral degrees; the Copyholder firſt, who was firſt expelled. Sir *Audly Nowels* Caſe. *Yelv.* 81.

So in the Lord *Norris* Caſe, who withſtood a reſtitution to his Leſſee. *Ib.*

In Inditement of Forcible Entry, being *Ad tunc exiſtens liberum tenementum B. ad voluntatem Domini ſecundum conſuetudinem manerii*, the plaintiff could not be reſtored, becauſe *per copiam rotulorum Curiæ* was omitted, for the plaintiff might be tenant by the Verge, not by Copy: but a Copyholders widow holding *per Banc.* may have reſtitution. *Lach.* 182.

Upon traverſe the Juſtice may ſtay reſtitution. *Dal.* 315.

The diſſeiſee entreth peaceably, and keepeth out the diſſeiſor

diſſeiſor by force; the diſſeiſor ſhall not be reſtored, becauſe the diſſeiſor had the younger title. But the diſſeiſee ſhall be impriſoned and fined, becauſe he held with force. *Cro.* 162. b. & 164. b. *Dal.* 315. Otherwiſe where the acter is by force. *Vide antea.*

The diſſeiſee entreth quietly upon the diſſeiſor, and ſo abide together divers days, and then the diſſeiſee putteth out the diſſeiſor by force, the diſſeiſor ſhall not be reſtored. *Dal.* 315. *Cro.* 163. a. b.

Where the tenant reſiſteth diſtreſs by force, the Juſtices may remove it, but cannot make reſtitution. *Dal.* 302.

Wife, children, and ſervants do preſerve a poſſeſſion, but cattel on the ground do not. *Dal. ibid. Cro.* 164. b.

Two are in poſſeſſion by ſeveral titles in one houſe, the Law adjudgeth him in poſſeſſion, who hath the beſt right to the poſſeſſion. As *A* enters wrongfully upon *B*, and both do continue in the houſe; afterwards *B* puts out *A* with force; *A* ſhall not be reſtored, for *A* never gained poſſeſſion by his entry. *Dal.* 315. *Cro* 163. b.

Two are joynt-tenants or tenants in common, whereof one forcibly put the other out of poſſeſſion. *Quære* what a Juſtice of Peace may do therein, for that his entry and poſſeſſion is lawful. *Dal.* 315. *Pax Regis.* 39.

Reſtitution of ſtollen Goods.

He that hath goods ſtollen, if the felon be thereof indicted and arraigned, and found guilty thereof; or otherwiſe attainted by reaſon of evidence given by the party robbed, or the owner of the goods, or other by their procurement; then the goods ſhall be reſtored tho they never made freſh ſuit by 21 *H.* 8. 11. *Dal.* 409. *Cro.* 191. 3. *Lam.* 586.

And the Juſtices have power to award writs of reſtitution.

reſtitution 21 *H.* 8. *c.* 11. *Lam.* 586. *Cro.* 191. 2. *Br. Reſtitution.* 22. *Dal.* 409.

Executors ſhall have reſtitution after attainder or conviction, upon evidence by their means given. *Dal.* 410.

Three are robbed, reſtitution ſhall be only to ſuch, for whoſe Goods the felon was indicted. *Dal.* 410. *Cro.* 191. 2.

A felon ſtealeth from ſeveral men, is attainted only at the ſuit of one; the King ſhall have the goods of thoſe at whoſe ſuit he was not attainted *Dal.* 410.

There be divers Thieves, and only one principal is attainted, the robbed ſhall have reſtitution. *Dal. ib.*

If the felon ſold the ſtollen goods in Market overt, or in a Fair, no reſtitution, except he that bought them were privy to the felony. *Ib. Cro.* 191. 2.

Goods of any ſort ſtole, and ſold, exchanged, or pawn'd to any Broker, *&c.* in *London*, *Weſtminſter*, or *Southwark*, or within two miles of *London*, the property is not altered. 1 *Jac. c.* 21.

No reſtitution of ſtollen goods, if he know not the felon. *Dal.* 410.

No reſtitution, if the felon leaveth the Goods, and eſcapeth, and the Lord of the Manor ſeiſeth them. *Dal ib.*

If the felon had not his goods in his poſſeſſion when he fled, but left them elſewhere; they are not waived, but the owner may take them whereſoever he finds them. 5 *Co.* 109. *Dal. ib.*

A man had his horſe ſtollen, and ſo he publiſhed it, but knew not who ſtole it, ſo that he could not indict him, *&c.* It ſeemeth that he ſhall not have his horſe again, for it was his folly to publiſh that it was ſtollen, for he might have demanded it, as loſt. And when he knew who took his horſe, he might afterwards indict him *Cro.* 191. b.

There is another ſort of reſtitution, *viz.* when a freeman of a Corporation is diſfranchiſed by reaſon of

a falſe certificate, or return, he may bring his Action of the Caſe, and be reſtored by judgment to his Freedom. 11 *Co.* 99. 2.

Return.

Recognizance taken by the Juſtice of Peace ex officio, ought to be returned at the next Quarter Seſſions. *Lam.* 109. *Dal.* 277. *Cro.* 139. 2. *Supplicavit* is to be returned into the Court whence it came. *Lam.* 107. *Dal.* 277.

Return of a recognizance upon a *Supplicavit*, is not of neceſſity till *Certiorari*. *Lam.* 109. *Dal.* 277, 28.

Return of a reſcue being, *quod fecit warrantum*, not pleading it to be by writing, good, and it ſhall be intended ſo. 1 *Cro.* 281. 3 *Co.* 44.

Return of Jurors. *Vide* Jurors.

Vide Recognizance, Releaſe, Certificate.

Riots.

Riot is, where three or more perſons be diſorderly aſſembled, to commit with force any unlawful act, and do accordingly execute or attempt the ſame. *Lam.* 176. *Cro.* 61. 2. *nu.* 2. *Dal.* 320.

Three or more enter into land with force, &c. where their entry is lawful, it is a riot. *Dal.* 325. *Cro.* 64. 2. *nu* 49.

Force by three is a riot. *Dal.* 84.

Doing a lawful act with violence, or in an unlawful way; as to diſtrain for rent with force.

Women and Children of diſcretion may be of the number to make up a riot, &c. *Dal.* 325.

Riot may be committed by ſtanders by, countenancing the unlawful act; otherwiſe if they come by chance.

A Town in *Devonſhire* was indited for ſuffering an Aſſembly to hold Aſſizes in mockery of Juſtice. 1 *Cro.* 252. 18 *Ed.* 3. *Rot.* 132.

There

There was a preſentment before *Forteſcue*, againſt the Town of *Norwich*, of a great riot there, where one *Gladman* took upon him to be King, going to the Priory with a Crown of Paper in a riotous manner. The Liberty was ſeiſed. 1 *Cro.* 252. 21 *H.* 6.

So a grand riot at *Charing-Croſs* upon an arreſt; where reſcue was made by ſeveral perſons, who were pillored, and fined five hundred pounds a piece, and the chief of them a Cobler with a ſword in his hand, and a Kettle on his Head ſtood upon the Pillory ſo armed. 1 *Cro.* 507.

One Doctor *Lamb* was killed by a grand riot in *London*, and the City fined a thouſand marks. *P.* 8. *Car.* 1.

What Aſſemblies ſhall not be ſaid a Riot.

1. A Sheriff or Bailiff levy people to ſerve the Kings Writs. *Lam.* 178. *Dal.*

2. Conſtable gathereth aſſiſtance of men with weapons to part an affray. *Lam.* 178.

3. A man threatned to be beaten in his houſe, aſſembleth company with force; otherwiſe of a threatning to be beat as he goeth to market. *Lam.* 179. *Dal.* 323. *Cro.* 64. 2. *nu.* 42.

4. Many aſſemble together, and they know not to what end. *Lam.* 179, *Cro.* 61. b. *nu.* 7. *Dal.* 322.

5. Many aſſemble at a Church-Ale, or at a Chriſtmaſs Dinner; and they ſuddenly fall out, and fight. *Lam.* 179. *Dalt.* maketh *Quære* 323.

6. A number of women and children under the age of diſcretion flock together for their own cauſe, unleſs moved by a man of diſcretion to do ſome unlawful act. *Lam.* 180. *Dal.* 325.

7. To gather meet company to carry away a piece of Timber, which will not be moved without a good many, whereto I pretend right, tho in Law it be anothers.

Lam. 178. yet if he uſe threatning words, as to ſay he will have it in ſpight of the other, or tho he die for it, his doing may then become a riot. *Dal.* 324, 325. *Lam. ibid.*

8. To meet to drink at an Alehouſe, to play at foot-ball, bucklers, bear or bull-baiting, dancing, bowls, cards or dice, or ſuch like diſports. *Dal.* 323. *Lam.* 178. *Cro.* 61 b. *nu.* 7.

9. To uſe harneſs on Midſummer day at night in *London*, or on May-day in the Country. *Lam.* 178. *Cro.* 64. a. *nu.* 43. *Dal.* 324.

The maſter intending a riot, taketh with him his ordinary ſervants, who know not his intent, it is no riot in the ſervants. *Lam.* 179. *Cro.* 61. b. 62. a. *nu.* 13. *Dal.* 322.

A Jury falleth out, and fighteth, it is no riot, but an affray. *Dal* 322. *Lam.* 180.

If any aſſemble for any Sports, as aforeſaid, with intent to break the Peace, and make an affray, or do other outrage; it ſeemeth to be a riot in ſo many as come with ſuch intent. *Dal.* 323.

Quære, if falling out ſuddenly at ſuch a meeting, and then falling to take parts, be a riot. *Dal.* 323. But if by agreement they meet again and fight, it is a riot. *Ibid. Vide Cro.* 61. b *nu.* 12.

It can be no riot, except there be an intent, precedent to ſome unlawful act with force, and every man may in a peaceable manner aſſemble a fit company for doing a lawful act; as removing a common nuſance. *Dal.* 222, 224 *Cro.* 62. a. *nu.* 13.

Yet if a man go to Seſſions or market with his ſervants in harneſs, tho there be no intent to commit a riot, yet the manner maketh a riot. *Cro.* 61. a. *Vide* 2. *E.* 3. *cap.* 3. *Dal.* 324.

What

What one Juſtice of Peace is to do in caſe of Riots.

He may prevent a riot before it be done, or ſtay it in the doing, and in the doing may take and impriſon the rioters, and bind them to their good behaviour. *Dalt.* 195. *Lam.* 181.

A riot being done, Juſtices of Peace can neither record the riot, nor make inquiry, nor aſſeſs the fine, nor award proceſs, nor meddle with it, but only as a treſpaſs againſt the peace, or upon the ſtatute of *Northampton* of forcible entry. *Vide Dal.* 197. *Lamb.* 181.

Juſtices of Peace ſitting in a judicial place, and ſeeing a riot, may command them to be arreſted, and record it, and it concludeth the offenders. *Dal.* 195. *Cro.* 65. *nu.* 54. *Lam* 385.

But a Juſtice of Peace in another place, ſeeing a riot, and recording it, the parties may traverſe it. *Cro.* 65. 2. *nu.* 52 *Lam* 386. *Vide Dal.* 199.

Every Juſtice of Peace being of and in the County, having notice of any riot, ought to have a care to execute the ſtatute 13 *H.* 4. *c.* 7. *viz.* that the rioters be arreſted, *&c.* and removed, otherwiſe the next Juſtices forfeit an hundred pounds a piece, and every other Juſtice in whom there ſhall be default, finable in the Star-Chamber, upon the Stat. 17 *R.* 2. *Vide* 19 *H.* 7. 13. *Dal* 310. But no Juſtice dwelling in another County, tho next, is within the ſtat. 13. *H.* 4. *Dal.* 197. 201. *Dal* 84, 195, 196. *Cro.* 124. 2. *nu.* 22.

One Juſtice of Peace may arreſt rioters, enforce them to find Sureties for the Peace or good behaviour; or in default, commit them to priſon. *Dal.* 195. *Cro.* 157. b. *Lamb.* 181.

A Juſtice of Peace not finding the rioters come to the place, may leave his ſervants, to reſtrain the rioters when they come; or elſe arreſt them, if they offer to

break the peace. *Dal.* 196. *Lam.* 181. *Br. Peace.* 7.

If the Justice of Peace be sick, he may send his servant to repress a riot, or to arrest such offenders, and bring them before him to find sureties for the peace, and his command by word is sufficient. *Dal.* 176. *Cro.* 64. 2. *nu.* 45. & 148. b.

One Justice of Peace may cause all statutes for suppressing of riots to be put in execution. *Dal.* 196.

If the riot be notorious, it is not safe to stay till complaint, or information. *Dal.* 196. *Dy.* 220.

What two Justices of Peace may do in a Riot.

They ought to send for the Sheriff, or Under Sheriff, if none of them come. *Dalt.* 197. *Lam.* 327.

If one or two next Justices do come, and not the Sheriff or Under-Sheriff, such as come, shall be excused of their fine of an hundred pounds. *Dal.* 196, 197. *Lam.* 327. *Cro.* 63. b. *nu.* 35.

If one Justice of Peace in the County shall execute the statute of 13 *H.* 4. *c.* 7. it shall excuse the next Justices. *Dal.* 196. *Lam.* 326, 327.

Two Justices of Peace present without the Sheriff are finable, if they do not all which by the statute of 13 *H.* 4. *c.* 7. ought to be done. *Dal.* 197. *Lam.* 327.

If two Justices of Peace (without the Sheriff or Under-Sheriff) see persons committing a riot, they may cause them to be arrested, and record it. *Lam.* 198. *Quære* *Dal.* 197.

Particulars

Particulars which the two next Juſtices of Peace, with the Sheriff, or Under-Sheriff, muſt do upon the Statute. 13 H. 4. cap. 7. Dal. 113.

1. They muſt go to the place where the riot is. Dal. 198.

2. They ſhall take the power of the County, *viz.* all above fifteen years of age, under the degree of Barons; upon pain of impriſonment, fine and ranſome. *Dal.* 114. *Cro.* 157. b. *Lam.* 314, 315.

It is not good to raiſe the power of the County, without certain information and knowledge, yet they may do it upon information (tho it be falſe) and be excuſed, or without information, if when they come they find one. *Dal.* 199. *Lam.* 315, 316. *Cro.* 64. b. *nu.* 49.

3. They ſhall arreſt all ſuch offenders, or cauſe them to be arreſted, and remove the force; commit to priſon the rioters, and take away their weapons. *Dal.* 199. *Lam.* 316, 317.

And all ſuch as come into the company, if they be preſent, ſhall be arreſted, impriſoned, and fined, as it ſeemeth. *Dal.* 199.

Such as they meet coming from the place riotouſly arrayed, they may arreſt and impriſon, but cannot record any riot done by them, but after inquiry may fine them. *Dal.* 199. *Lam* 316. *Cro.* 63. a. *nu.* 32.

The Juſtices ſee the riot committed, and the rioters eſcape; they muſt record it, and cannot arreſt them but upon freſh ſuit; which record muſt be ſent into the Kings Bench, that proceſs may come from thence. *Dal.* 199. *Lam.* 318.

The Juſtices may grant a Warrant for ſuch as they

ſaw eſcaping, to be bound to the good behaviour, Dal. 200 *Cro* 166. 2 *nu.* 27.

And ſo they may do upon information; but it is beſt to do it upon inquiry, and ſo to fine them. Dal. 201.

In execution of the ſaid arreſt of rioters, the Juſtices may juſtifie the beating, wounding, or killing of any the rioters which reſiſt or will not yield. Dal. 205, *Lam* 316. *Cro* 62. b. *nu.* 20. & 158. b.

4. After arreſt the Juſtices, Sheriff, or Under-Sheriff ſhall record the riot in writing, *viz.* all that ſhall be done in their preſence againſt Law; which ought to be formal and certain; as time, place, number, weapons, manner, &c. Dal. 200. *Cro.* 63. 2. *nu.* 31. *Lam.* 316, 317.

The form of the Record. Vide Dal. 525. Lam. 220.

If in going to ſee a riot, another riot happen in their preſence, they may record it, arreſt and impriſon the offenders. Dal. 200. *Lam.* 318.

If the rioters make a riot upon the Juſtices (and Sheriff) they may record it alſo. Dal. 200.

Juſtices record a riot, and upon examination it appears no riot; or ſaw it not; or there was no riot; yet the parties are concluded. Dal. 200. *Cro.* 63. 2. *nu.* 33, 65 2. *nu.* 56 130. 2 *Lam.* 317.

5. The Juſtices are preſently to commit rioters to the Goal, and the power of the County ought to be aiding to the Sheriff, or Under-Sheriff. Dal. 201. 473.

None may commit the Rioters, but the Juſtices, who had the view. Dal. 201.

If the Juſtices and Sheriff, or Under-Sheriff commit to priſon the offenders, and do not record the riot; every one of them loſeth an hundred pounds, or do record the riot, and do not commit the offenders. Dal. 101 *Cro.* 65. b. *nu.* 10.

6 The ſaid Juſtices and no other ſhall aſſeſs the fine upon the offenders, which by the ſtatute of 1 *H.* 5. *c.* 8. ought to be of good value, that thereout the charges of the Juſtices and other Officers may be born; yet

muſt it be reaſonable and juſt. *Dal.* 201. *Lam* 317. *Co* 161. 2. *nu.* 45.

The fines muſt be impoſed upon every offender ſeverally. *Dal.*201. 11 *Co.*43,44.

The fine muſt be eſtreated into the Exchequer. *Dal.* 201. and then to deliver the offender as it ſeemeth. *Ibid.*

The Juſtices, as it ſeemeth, may out of the fines pay the charges of the ſaid Juſtices, and of the Jury who made the Enquiry, for their diet, and the Sheriffs fees; and the Juſtices Clerk who maketh up the record, may have his fees out of that money; or rather may take of every offender twelve pence, when they pay their fines. *Dal.*203.

Or the Juſtices may record the riot, commit the offender, and after certifie the record to the Aſſizes, Seſſions, or Kings Bench. *Dal.* 201.

The record may be delivered at the Seſſions to the Clerk of the Peace, together with the reſidue of the money remaining of the fine. *Dal.* 119.

7. If the riot was not committed in the preſence of the Juſtices, or the rioters gone before their coming, two Juſtices at leaſt within one month next after muſt enquire thereof by a Jury returned by the Sheriff, and record the riot being found, which is to remain with one of the ſaid Juſtices. *Dal.*203. *Lam* 321.

The form of ſuch Enquiry. Vide Dal. 526. Lamb. 329.

Enquiry ſhall not be, unleſs the rioters be gone. *Dal.*202.

It is not neceſſary that one of the Juſtices of Peace be of the *Quorum*. *Dal.*202. *Co.*62. b. *nu.*25.

The Enquiry may be made at any time after the month; but if it be not within the month, the Juſtices are in danger to loſe an hundred pounds. Yet if the Jury be charged within the month, and have day after to give up the verdict, the Statute is not broken. *Dal.* 202. *Lam.* 322.

At

At the Enquiry the Sheriff or Under-Sheriff must be preſent, but then as Miniſters only. *Dal.* 202. *Lam.* 321.

The Juſtices aſſemble to enquire within the month, the parties agree, and the Juſtices diſmiſs thereupon the Jury; the Juſtices ſhall be fined, tho none will ſolicite the Inqueſt, or give evidence to the Jury; for the Juſtices ought to proceed *ex officio*, ſeeing ſome of the Jury may have knowledge of the riot, and they ought to make proclamation, if any will give evidence. *Dal.* 202. *Lam.* 322.

The Juſtices may bind to the good behaviour the parties complaining of the riot, who cauſed them to meet, and will not proſecute for the King, but have agreed it. *Dal.* 203.

Tho the Juſtices go not to ſee the riot; yet they may inquire within a month after. *Lam.* 321.

8. After Inquiry had, and the riot found, the Juſtices have power to hear and determine the ſame, *viz.* Firſt to make out proceſs againſt the offenders under their own teſt. Secondly, to aſſeſs the fine. Thirdly, to commit till they have paid the fine. 4. Fourthly, to deliver them after payment of their fine, or ſureties taken by recognizance, or otherwiſe they may receive their traverſe, if the matter will ſerve, and diſmiſs them. *Dal.* 203. *Lam.* 323. *Br. Impriſ.* 100.

But the Juſtices ſhould ſend ſuch Indictment or Inquiſition to the next Quarter Seſſions, or into the Kings Bench, together with the ſaid traverſe, there to be tryed. P. R. 30. *Dal.* 203.

9. If the riot upon Inquiry cannot be found, the Juſtices and Sheriff muſt certifie into the Council board, or Kings Bench, the whole fact and circumſtance, with the names of the offenders *ſub pœna*. *Dal.* 204. *Lam.* 323, 324. *Præmunire Br.* 1.

The Certificate muſt be made within a month after the Inquiry, or elſe it is of no force. *Dal.* 204. *Lam.* 324.

Tho

Tho two Juſtices with the Sheriff ſee the riot; yet two other Juſtices may make the Inquiry, and they all together, or the firſt two, or laſt two, with the Sheriff or Under-Sheriff, may make the Certificate. *Dal.*204. *Lam.*325.

Where the ſeveral Certificates be made, or Certificate and Inquiry do diſagree, the beſt for the King ſhall be preferred. *Dal.*205. *Lam.*325.

If the Jury find but ſome guilty, the Juſtices may certifie the reſt alſo. *Ib.*

Any material thing left out in the Inquiſition, may be ſupplied in the Certificate. *Dal.*205.

Quære, if after Inquiry, and before Certificate the Sheriff die, or one of the Juſtices put out of Commiſſion; whether a Certificate can be made. *Dal.* 205: *Vide Lam.*326.

Upon the Certificate of two Juſtices and the Sheriff, the Lord Chancellor may grant a *Capias* to attach the offenders. *Dal.*205. *Lam.*313.

Upon default of the Juſtices and Sheriff in not executing the ſtatute 13 *H.* 4. *c.* 7. the party grieved may have a Commiſſion out of the Chancery, to inquire of the riot; as alſo of the Juſtices and Sheriffs default. *Dal.*205.

Alſo the Lord Chancellor may ſend his Writ to the Juſtices and Sheriff, to execute the ſtatute of 13 *H.*4. *c.* 7. *Dal.*205.

The Juſtices and other Officers ſhall do their Offices at the Kings charge in going, carrying and returning, and the doing of their ſaid Offices, by payment thereof to be made by the Sheriff for the time being, by Indenture betwixt him and the ſaid Juſtices and other Officers aforeſaid, to be made of the payment thereof whereof the Sheriff upon his account in the Exchequer ſhall be allowed. 2 *H.*5. *c.* 8.

The Sheriff is to return twenty four, whereof every one hath lands and tenements within the ſame Shire of twenty ſhillings *per annum*, of Charter Lands, or

one

one pounds six shillings eight pence of Copyhold, or both *ultra repriſas*; and must return for issues upon every one at the first day twenty shillings, at the second forty shillings, if they do not appear and be sworn the first day. And the Sheriff or Under-Sheriff not returning persons sufficient, loseth for every one twenty pounds to the King. 19 *H.* 7. *cap.* 13.

If the riot, rout, or unlawful assembly be not found by the Jury, by reason of any maintenance or embracery of the Juries, the Justice, Sheriff, or Under-Sheriff, (besides such Certificate to be made by 13 *E.* 4.) shall, in the same Certificate, certifie the names of the maintainers or embracers, upon pain of every Justice, Sheriff, or Under-Sheriff twenty pounds (if they have not reasonable excuse) which Certificate shall be of force, as if the matter therein found were found by the verdict of twelve men. And every maintainer and embracer forfeiteth twenty pounds, and to be committed to ward, to remain during the discretion of the Justices. 19 *H.* 7. *c.* 13.

If a Maior and Aldermen, *&c.* assemble in their common quarrel, and make a riot, or rout, it shall be punished in their private capacity. *Dal* 321.

Indictment of a riot is not good, unless it say, *contra formam statuti inde editi & provisi.* Cro. 102. 2 *Ru* 19.

Rivers.

Every Justice of Peace is a Conservator of rivers within his County, and may survey the wears in rivers, that they be of reasonable wideness. *Lam.* 189.

The Lord Maior of *London* is Conservator of the *Thames*, from *Staines* above bridge thirty miles, to *Medway* below bridge sixty miles.

Commissioners of Sewers cannot by the statutes make a new river. 10 *Co.* 142. 2.

Where

Where Sluces are lawfully made. *Vide* 12. *Hen.* 8. 3.

For making the river *Thames* navigable to *Oxford*. *Vide* 21. *Jac.* 32.

For repairing a Ferrey in the Isle of *Sheppey*. *Vide* 18 El. 10. 27. *El.*

Vide plus in Watermen.

Vide for amending Sewers, or Banks near rivers. *Vide* Sewers. & 10 *Co.* 138, &c. *Dal.* 221.

For preservation of fishing in the river *Severn*, which is in the Counties of *Worcester*, *Salop*, and *Glocester*. *Vide* 30 *Car.* 2.

Justices of Peace in the Counties of *Worcester*, *Salop*, *Glocester*, are made Conservators of the river *Severn* within their respective limits. 30 *Car.* 2. *Vide* Fish.

Vide Lam. 189. that every Justice of Peace is so within his County.

Robbery.

Robbery is a violent taking away of any goods from any mans person, with intent to steal them, and putting him in fear thereby, tho the thing taken be but to the value of an half penny. *Cro.* 33. b. *nu.* 1. *Lam.* 267. *Dal.* 363.

But if a felon take money from me in the high-way, and shall not put me in fear, it is not robbery. *Dal.* 364. *Cro.* 34. b. *nu.* 12. *Lam.* 266. *Dy.* 40 *sh.* so taken, Clergy allowed. 5 *El.*

If a thief take nothing from my person, but assaulteth me, whereby he getteth any thing from me, it is robbery. *Dal.* 363. As

1. I cast my purse on the ground, and he taketh it away. *Lam.* 268. *Dal.* 364.

2. After assault he prayeth me to give him a penny, and I do so *Dal.* 364.

3. If

3. If upon assault I deliver my purse. *Dal.* 364. b. *Cro.* 34 *nu.* 10. *Lam.* 267, 268.

4. If, flying from a Thief, I cast my purse into a bush, and he doth afterwards take it away. *Dal.* 364. *Cro.* 35. 2. *nu.* 19. *Lam.* 268.

But one finding a purse in the high-way denies it; no felony. *Dal.* 373.

5. If upon assault I flie away, and my hat fall, and the thief carry it away. *Cro.* 35. 2. *nu.* 18. *Dal.* 364.

6. If a thief bid me deliver my purse, without any force used, and I deliver it, and he finding but two shillings in it, delivers it again. *Cro.* 34. b. *nu.* 10. *Dal.* 364.

7. If by threats he compel me to swear to bring him money, and afterward I bring him the money accordingly. *Dal. ib. Lam.* 268.

In some Cases it is Robbery, tho the Thief neither take it from my person, nor assault me.

As 1. A Thief taketh my goods openly in my presence against my will, the fear is the like as if it had been from my person. *Cro.* 34. 2. *nu.* 5. *Lam.* 269. *Dal.* 364.

2. To take a horse or a beast out of my pasture, I looking on, if the felon put me in fear. *Dal. ib. Cro.* 34. b. *nu.* 5.

3. To make it robbery, the person must be put in fear. *Cro.* 34. b. *nu.* 12. Dal. 364.

4. Two come to rob me, and one acteth it, being out of the sight of the other, who after returneth to him; it is robbery in both. *Cro.* 34. 2. *nu.* 10. *Lam.* 270. 28 *El. Pudseys Case. Dal.* 364.

To assault one to rob him without taking any thing

& not robbery. *Co.* 34. 2. *num.* 9. *Dalton* 363.

After a robbery committed the Hundred must answer the loss, if the robbers be not taken within forty days; if it be done in the division of two Hundreds, both Hundreds, and the Franchises within them, must be answerable, and the Hundred wherein defect of fresh suit is, the one moiety. *Dal.* 215. 27 *El.* 13.

Upon robbery in one County, and Hue and Cry into another, the robbed may bring his action of debt in either County. 15 *Ed.* 4. 18.

No person robbed shall bring any action upon the statute of Hue and Cry, except he be first examined (within twenty days next before the action brought) upon his corporal oath before some one Justice of Peace of the County where the robbery was committed, whether he doth know any of them that did the robbery; upon which examination, if he confess he knoweth any of them, then shall he, before such action brought, enter into recognizance before the said Justice, effectually to prosecute such persons by Indictment, or otherwise, according to the due course of the Laws of this Realm. 27 *El.* c. 13. *Lam.* 202. *Dal.* 215.

The Servant being robbed shall swear for his master. 1 *Cro.* 36. 336. 3 *Cro.* 142.

Oath may be taken in *London* by a Justice of Peace of the Hundred.

After a robbery committed the robbed shall not recover against the Hundred, except 1. with all convenient speed he give notice of the robbery to some inhabitant near to the place where the robbery was committed.

Notice given to the inhabitants of a Vill near, tho out of the Hundred or County is good. 1 *Cro.* 41. 379. 7 *Co.* 7. 8.

So the place of notice alledged to be *prope divisis*, &c. shall be intended near. 1 *Cro.* 41.

2. He commence his action within a year and a day next after such robbery committed.

3. He

3. He be examined (*ut ſupra*) before a Juſtice of Peace. *Dal.*215.

Any two Juſtices of Peace in the Hundred, (one being of the *Quorum*) may aſſeſs all Towns and Pariſhes in the ſaid Hundred and Liberties therein, upon recovery and execution had againſt any of the Hundred, towards an equal contribution; which money the Conſtable muſt deliver to the ſame Juſtices within ten days after collection; and they upon requeſt to thoſe to whoſe uſe it was collected. *Dal.* 216. *Cro.*197.a.

And the Hundred ſhall be aſſeſſed in like ſort in default of purſuit of freſh Hue and Cry. *Dal.*216.

The Hundred ſhall be charged, tho the robbery was done on a Sunday. 2*Cro* 497.

Robbery in an houſe doth not charge the Hundred, whether it be done in the day or in the night. *Ib.*

The Hundred is diſcharged upon taking of any of the offenders by purſuit. *Dal.*216. So if the party robbed take any of the offenders after Hue and Cry made. *Ibid.*

Robbing of an Houſe.

1. Robbing a houſe or any out-houſe, as a barn or ſtable in the day, to the value of five ſhillings.

2. Robbing a houſe by day or by night, any perſon being therein, and thereby put in fear.

3. Robbing any perſon in any part of his dwelling houſe, the owner or dweller, wife, children, or ſervants, being in any place within the precinct of the ſame, ſleeping, or waking.

4. Robbing any Booth, or Tent in Fair or Market, the owner, his wife, children, or ſervants being in the ſame, ſleeping, or waking. *All theſe are as penal as Burglary.* *Dal.*390. *Lam.*265. 39 *El. cap.* 15. 21 *H.*8. *cap.*1. 5 *E.* 6. *c.* 9.

Rogues.

Rogues.

All perſons hereunder mentioned, being above the age of ſeven years, may be puniſhed as rogues. *Dal.* 207. 39 *El. c.* 4.

1. All going about begging upon any pretence or colour, tho licenſed by any ſubject, except in ſome particular caſes after mentioned. *Dal. ib. Lam.* 442.

2. All going about the Country, uſing any ſubtle craft, or unlawful games; as Fortune tellers, Juglers, *Dal. ib.*

3. All proctors, patent-gatherers, or collectors for priſons and hoſpitals. *Lam.* 442. *Dal. ib.*

4. All fencers, bear-wards, common players of interludes, and minſtrels wandring abroad. *Dal ib. Lam.* 443. 1 *Jac. c.* 7.

5. All pedlers, pety chapmen, tinkers, and glaſs-men wandring abroad. 1 *Jac. c.* 7. *Dalt. ib. Lam.* 443. 21 *Jac. c.* 2.

Tho he has a place of habitation. 39 *El.* So tho not taken wandring. 2 *Roll.* 172.

6. All wandring labourers able in body, refuſing to work for reaſonable wages, having nothing but labour to maintain themſelves. *Dal.* 207. *Lam.* 443.

But ſuch as are of any pariſh, able to work, and do not wander, but refuſe to work for the uſual wages taxed in thoſe parts, are to be ſent to the Houſe of Correction. *Dal. ib.*

Rogues are not to be ſent to the Houſe of Correction, but by paſſes to the place of their birth, tho an inhabitant a long time in another pariſh: and then grown impotent. *Aſſ.* 14 *Car.* 2. *Chappels* Caſe.

So if a woman big with child be ſent to the Houſe of Correction, and there delivered, the child ſhall not lye upon the pariſh where the Houſe of Correction

is, but ſhall be ſent to the place from whence ſhe was ſent, as that of her laſt ſettlement. *Ib.*

Children under ſeven years of age, wandring with their mother, who died in *tranſitu* ſhall be ſent to the places of their birth, tho that be in ſeveral places reſpectively, for children under ſeven ſhall not be ſaid Vagabonds. *Dal.*209.

7. Poor of the Pariſh begging otherwiſe than is appointed them; or begging by High-ways, *ib.* are to be ſent to the Houſe of Correction.

8. All pretending to be Egyptians, not being felons. *Dal.*208. *Lam.*443.

9. Soldiers or Mariners that beg, except Soldiers or Mariners having a teſtimonial from a Juſtice of Peace near the place of their landing, with the place of their dwelling or birth to which they are to paſs, and a convenient time limited for their travel, and purſuing the ſaid licenſe (39 *El. c.* 4.) or do counterfeit any Certificate from their General, Governor, Captain, Lieutenant, Marſhal, Deputy, or Admiral, *Dal.* 208.

10. Diſeaſed perſons travelling to the Baths and licenſed, if they beg, or not licenſed by two Juſtices, or not returning as they are limited. *Dal.* 208. *Lam.* 443.

11. A Rogue once whipped, not performing the order appointed by his teſtimonial. *Dal.*208.

12. A rogue going with a general paſsport, not directed from pariſh to pariſh. *Dal. ib.*

So a rogue carrying his own paſsport without a guide. *Dal.*208.

13. Servant departing out of ſervice without teſtimonial. 5 *El.c.*4. or taken with counterfeited teſtimonial. *Dal.*208.

14. Perſons infected with the plague, or dwelling in infected houſes, going abroad contrary to order. 1 *Jac.* c 31. *Dal.ib.*

15. Perſons able to labour and relieve themſelves and families, that run away; or threaten to run away, and

and leave their charge to the parish. 7 *Jac. c.* 4. *Dal.* 308. 21 *Jac. c.* 28.

16. Any calling himself a scholar, that hath gone about begging. *Lam.* 443.

17. Any pretending loss by fire or otherwise, that wandring beggeth. *ib.*

18. Any delivered out of goal, that hath begged for fees. *ib.*

Any Justice of Peace may appoint any person to be openly whipp'd naked, even unto bleeding, that shall be taken begging, wandring, or misordering himself, and is declared by the statute. 39 *El.* 4. to be a rogue, vagabond, or sturdy begger; and shall cause him, so whipped, to be sent from parish to parish by the Officers of the same, the next way to the parish where such person was born, if it can be known; if not, to the parish where such rogue last dwelt before the punishment by the space of a year, there to labour; or not being known where he was born or dwelt, then to the parish through which he last passed without such punishment, to whom the Justice shall under his hand and seal make a Testimonial witnessing his punishment, day and place thereof, and whither he is limited to travel, and by what time. And in case such place of birth and last dwelling be not found nor known, then such person shall by the Officer of such Village, through which he last passed, without punishment be conveyed to the House of Correction of the Limit, or to the Common Goal (39 *El. c.* 4.) there to remain in work, until such person be placed in service for one years continuance, or not being able of body, till such person be placed in some alms-house of that place or County. *Lam.* 204, 205.

The like may be done by the Constable, assisted with the advice of the Minister, and one other of the parish. 39 *El. c.* 4.

He is an incorrigible rogue, that misreports the place

of his birth, and is to be ſent to the Houſe of Correction in the County to which he is ſent; and if there be none there, then to the Goal until the next Seſſions; ſo if he miſreport the place of his laſt dwelling by the ſpace of a year, if it appear not where he was born. *Lam.* 207. *Reſ.* 1, 2. *Dal.* 218.

Husband and Wife having an houſe, rogue about; they muſt be ſent to the Town where that houſe is; and ſo of an inmate. *Lam.* 207. *Reſ.* 3. *Dal.* 209.

Wife, and children under ſeven years, being vagrant, are to be placed with the husband; if the husband be dead, then where they were born, or dwelt laſt. *Lam. ib. Reſ.* 4, 9, 10. *Dal.* 209.

Children vagrant, above ſeven years old, ſhall be puniſhed as rogues, and be ſent to the place of their birth. *Dal.* 209. *Lam.* 207. *Reſ.* 4.

Vagrant perſons with their children under ſeven years of age, being once placed at the place of birth of their parents or laſt dwelling, the parents dying after, or running away, the children once ſetled muſt ſtill remain there. *Dal.* 209. *Reſ.* 4. *Lam.* 207.

Wife vagrant is to be ſent to her husband tho he be but a ſervant. *Lam.* 208. *Reſ.* 5. *Dal.* 209.

Rogue, whoſe place of birth or dwelling cannot be known, hath wife, and children under ſeven years of age; they muſt be ſent with the husband to the place they were laſt ſuffered to paſs unpuniſhed, and the children muſt be relieved by the work of the parents, tho the parents be ſent to the houſe of correction. *Lam* 208. *Reſ.* 6.

Rogue ſent to a Town, and refuſed by the Churchwardens and Overſeers, to whom he is to be offered; is a forfeiture of five pounds in the refuſer. *Lam.* 210. *Reſol.* 12, 14. *Dal.* 212.

So where the Conſtable will not convey him. *Dalton* 212.

Any hindering the execution of the Law of 39 *El.* or any part thereof for the conveying of rogues, forfeiteth five

five pounds. And any two Juſtices may bind ſuch offender to the good behaviour; and upon confeſſion of the offender or oath of two, may by warrant under their hands and ſeals cauſe the ſaid ſum of five pounds to be levied by diſtreſs and ſale of the offenders goods. *Dal.* 218. 39 *El. c.* 4.

Rogue ſent from the place where he is taken, by a general paſsport, without conveying him from pariſh to pariſh; is a let in the conveying of Rogues, and a forfeiture of five pounds. *Lam.* 210. *Reſ* 13. *Dal.* 128.

Rogue going with ſuch a paſsport, continuing a rogue, is to be puniſhed by whipping. *Dal.* 208.

By parents is to be underſtood father or grandfather, mother or grandmother, being able perſons. *Lam.* 210. *Reſ.* 16.

By children, any child or grand-child, being unable. *Lam* 210. *Reſ.* 15.

Diſeaſed perſons living of alms, and travellers to *Bath* or *Buxton* for remedy, are to be licenſed thereto by two Juſtices of Peace, 39 *El. c.* 4. *Lam.* 332. yet may not beg, but muſt be provided of maintenance for their travel. *Dal.* 208, 213.

Forfeiture of offences againſt the ſtatute, 39 *El. c.* 4. upon conviction by confeſſion or by two witneſſes before two Juſtices of Peace, they may cauſe the ſame to be levied by warrant under their hands and ſeals, by diſtreſs and ſale of the offenders goods. 39 *El. c.* 4. *Lam.* 331. See 1 *Jac. c.* 7. *Dal.* 212.

All queſtions growing upon the ſtatute of rogues, may be heard and determined by two Juſtices of Peace, whereof one of the *Quorum*. *Dal.* 213. 39 *El. c.* 4.

Conſtable or Tything man not doing his endeavour to apprehend rogues within their limits, or wilfully ſuffering them to eſcape unpuniſhed, forfeiteth for every offence twenty ſhillings by 1 *Jac.* 7. *Dal.* 218. and five pounds if they do not convey them away towards their dwelling or place of birth. 39 *El. c.* 4. *Lam.* 444. 1 *Jac. c.* 7. *Dal.* 212.

Miniſter of the pariſh not keeping a regiſter of the teſtimonial of rogues puniſhed in his pariſh, and conveyed thence; loſeth for every default five ſhillings. 39 *El. c.* 4. *Dal.*212.

Every one is to carry to the Conſtable ſuch beggars, as they ſhall know to come to their doors for alms, or loſe ten ſhillings. 1 *Jac. c.* 7. *Dal.*212.

Juſtices of Peace are to meet twice a year at the leaſt, and oftener if occaſion be, in their ſeveral diviſions, for the executing of the ſtatute againſt vagabonds, and four or five days before, by warrant to command the Conſtables of Hundreds or Towns, by aſſiſtance of ſome of every Town, to make a general privy ſearch by night for finding and apprehending rogues, to be brought before the Juſtices at their meeting by them, and puniſhed: or ſent to the Houſe of Correction. 7 *Jac. c.* 4. *Dal.* 213. 21 *Jac. c.*28.

Conſtables at every meeting of the Juſtices of Peace for the execution of the ſtatute of rogues, are to give an account upon oath in writing, and under the hand of the Miniſter of the pariſh, what rogues, *&c.* they have apprehended both in the ſame ſearch, and alſo between every meeting; and how many have been puniſhed by them, or ſent to the houſe of Correction; and in default thereof, be fined under forty ſhillings as by the moſt of the Juſtices ſhall be aſſeſſed. 7 *Jac. c.*4. *Dal.* 214.

No man is to be put out of the Town where he dwells, or ſent to his place of birth or laſt habitation, but only a vagrant rogue. *Dal.*209. *Reſ.*9. *Lam.*209.

So of them whoſe terms of their houſes are expired, and ſervants whoſe times of ſervice are ended; for they muſt provide themſelves houſes anew, if they be not impotent: *Dal.*210.

Dangerous rogues are to be baniſhed, or condemned to the Gallies by the Juſtices at their Quarter Seſſions. 39 *El c.*4. *Law* 427. *Dal.*214,390.

Rogues by judgment of moſt of the Juſtices of Peace

in

in open Seſſions adjudged incorrigible, ought to be branded on the left ſhoulder with the Lettter R, and then to be ſent to their dwelling; if they have none, then to their laſt dwelling-place where they dwelt for a year; or if that connot be known, to their places of birth, 1 *Jac. c.* 7. if he offend again in begging or wandring, it is felony without Clergy. 1 *Jac. c.* 7. *Lamb.* 428. *Dal.* 390.

Soldiers and Mariners having a Teſtimonial under the hand of the Juſtice next to his landing place, of the time and place of his landing, limiting the place to which he is to paſs, and the time; if he purſue the ſaid licenſe, he may ask and take ſuch neceſſary relief as any will give him. 39 *El. c.* 17. *Law*, 303. *Dal.* 209.

Two Juſtices of Peace may ſend to the Houſe of Correction, as a ſturdy rogue, a perſon able to work, threatning to run away, and leave his family upon the pariſh, being proved by the oath of two before the ſaid Juſtices, unleſs he can put in ſufficient bond for diſcharge of the pariſh. 7 *Jac. c.* 4. *L.* 331.

He which runneth away, and leaverh his charge to the pariſh, is an incorrigible rogue. 7 *Jac. cap.* 4. *Dal.* 211.

Every Juſtice of the Peace may reward any perſons that apprehend and bring before them any Rogues, Vagabonds, or ſturdy Beggars, by granting an order or warrant under his hand and ſeal to the Conſtable of the pariſh, which ſuch rogue or vagabond paſſed through unapprehended; and upon default of payment, to proceed againſt ſuch defaulter according to the ſtatute of 1 *Jac. c.* 7. and to allow out of the ſaid forfeiture two ſhillings, and allowance for loſs of time, as they ſhall think fit. *Dal.* 214.

And if any perſon ſhall apprehend a rogue, vagabond, or ſturdy beggar, at the confines of any County which paſſed thorough another County apprehended, any Juſtice of Peace of the County thorough which ſuch rogue, or &c. paſſed unapprehended (upon Cer-

tificate under the hand of ſome Juſtice of Peace of the County where ſuch rogue was apprehended) may grant an order or warrant under his hand and ſeal to the Conſtable to pay ſuch perſons two ſhillings, and what he thinks fit for expences and loſs of time; and upon refuſal of payment, to proceed againſt ſuch Conſtable for the forfeiture, by 39 *El. c.* 4. *Dal.*214.

And a Proviſo is alſo impowering the Juſtices of Peace, to tranſport convicted Rogues, Vagabonds, and ſturdy Beggars to Engliſh Plantations beyond the Seas. 14 *Car.*2.*c.*12. *Dal.*214.

Rome. Vide *Pope.*

Rout.

Rout is, where three or more perſons be diſorderly aſſembled to commit any act with force, whether they put in execution their purpoſe or no; if they ſo do go, ride, or move forward after their firſt meeting. *Law.* 176. *Dal.*222.

A rout is only by ſome opinions, where three or more do aſſemble for their own common quarrel; as the inhabitants of a Town aſſemble to pull down a houſe, wall, pale, ditch, or other incloſure, pretending to have title of common, or a way there; or to beat a man that hath done ſome publick offence. *Dal.*221,222.

Sacrilege.

SAcrilege is the felonious taking of goods out of any Church or Chappel. *Lam.*420.

In this crime Clergy is taken away at Common Law:

Fruſtra

Fruſtra petis auxilium Eccleſiæ, qui peccat contra Eccleſiam.

Sacraments.

Three Juſtices of Peace may take accuſation, by oath of two witneſſes, againſt ſuch as deprave the Sacrament of the Supper, and examine what witneſſes were by, and bind them all to give evidence at the day of tryal; and they being found guilty, ſhall be impriſoned and fined. 1 *Ed.* 6. *c.* 1. *Dal.* 217. *Quære Lam.* 416, 366: The offence muſt be preſented in three months from the committing it. *Dal.* 217.

Three Juſtices of Peace, one being of the *Quorum*, may award againſt one indicted upon the ſtatute of 1 *E.* 6. *c.* 1. for depraving the Sacrament, a *Capias*, *Exigent*, and *Capias utlcat.* into any Shire. 1 *Ed.* 6. *c.* 1. *Dal.* 218.

Juſtices of Peace in their Quarter Seſſions may inquire, hear and determine of all recuſants and offences, as well for not receiving the Sacrament, according to 3 *Jac. c.* 4. as not repairing to Church. And in their Seſſions (wherein there ſhall be Indictment taken for not repairing to Church, or not receiving the Sacrament), to make proclamation to render their bodies to the Sheriff before the next Seſſions, and in default, a conviction. 3 *Jac. c.* 4. *Lam.* 616. *Dal.* 217.

Tranſubſtantiation in the Sacrament declared againſt by Officers, *&c. Vide* 25 *Car* 2.

Vide Proceſs, and 14 *Car.* 2. 4. 15 *Car.* 2. 4.

Salmons. Vide *Fiſh.*

Salt-peter-men.

Salt peter-men cannot dig in the manſion-houſe of any ſubject

ſubject without his aſſent, in regard of the danger that may happen thereby in the night-time to the owner, his family and goods, by Thieves and other Malefactors. *Co.* 11. 82. *Dal.* 307, 308. *Vide* Houſe.

Schoolmaſter.

To keep or maintain a Schoolmaſter which reſorteth not to Church, or is not allowed by the Biſhop or Ordinary of the Dioceſs, the maintainer forfeits ten pounds for each month, and the Schoolmaſter to be impriſoned for a year without bail, and diſabled. 23 *El. c.* 1. *Lam.* 519.

Any keeping a School, or being a Schoolmaſter out of the Univerſity, except in publick Grammar-School, and except in ſuch Noblemen and Gentlemens Houſes as are not Recuſants, and licenſed by the Archbiſhop or Guardian of the Dioceſs, both Keeper and Schoolmaſter forfeits forty ſhillings a day. 1 *Jac. c.* 4.

No Schoolmaſter or Tutor in a Family, but by licenſe of the Archbiſhop, Biſhop, *&c.* for which he ſhall pay twelve pence, and after ſubſcription. (*Vide* 14 *Car.* 1.) For the firſt offence three months impriſonment; for the ſecond, *&c.* ſuch impriſonment, and five pounds forfeiture to the King. *Dal.* 219.

Se defendendo

Is, when one kills another in his own neceſſary defence, giving back; or in defence of his Relations, Houſe, Poſſeſſions or Goods, without flying to a Wall, or Forfeiture.

So if againſt a Thief or Murderer one defend himſelf, and kill the other, the true man ſhall never give way to the thief, *&c.* nor forfeit. 3 *Inſt.* 56. 24 *Henr.* 8.

This

This Homicide not being done *felleo animo*, but upon inevitable neceſſity, admits of no acceſſaries, and is no felony, tho voluntary. *Ib.*

So, if one be aſſaulted by a true man ſo violently, or if he ſhould give back the place is ſuch that he ſhould be in danger of his life. *Ib.*

So where the aſſaulted fights, and before any mortal blow gives back to hedge, &c. and then kills the other, no felony. *Ib.*

So if the other come upon his Sword. *Ib.*

Yet at Common Law in this Caſe it was, and the ſtat. of *Glouc.* ſave the life, but leaves the forfeiture as before. *Ib.*

And here he ſhall ſue out his pardon of courſe. *Vide* how, in pardon.

If the aſſaulted falls to the ground, the giving back is excuſed, no felony.

So in this Caſe drawing his knife, and the other falls on it, and is killed. *Felo de ſe. Stamf.* 16.

So a Goaler aſſaulted by his priſoner, need not give back. 24 *H.* 8.

But flying back, and fearing an aſſault, holds up his Sword, &c. and the other is killed thereby, forfeiture of goods, &c. *Ib.*

So it is, if aſſaulted in his own houſe on a ſudden quarrel, and kills the other, forfeiture, &c. *Lamb.* 254.

So tho there were malice, unleſs the aſſaulted lie in wait, or agree the place of fighting, or ſtrike the firſt ſtroke; for then it is manſlaughter at leaſt. *Ib.* 253.

Sedicious Sectaries.

One Juſtice of Peace may within three months after the conviction of any ſedicious Sectary or Popiſh Recuſant deſcribed in the ſtatute of 35 *El. c.* 1. require the ſubmiſſion of him to conformity, and in default of ſuch ſubmiſſion,

submission, may require him to abjure the Realm; and if he refuse, or after return without license; it is felony. 35 *El. c.* 1. & 2. *Lam.* 204.

Justices of Peace in open Sessions may hear and determine offences committed within their limits, against the stat. 13 & 14 *Car.* 2. *cap.* 1. concerning persons called *Quakers*: And any one Justice of Peace, Mayor, or chief Officer of a Corporation may commit to the Goal, or bind over persons with sufficient sureties, in order to their prosecution and conviction upon the statute.

Sermon. Vide *Preaching.*

Servants. Vide *Labourers and Apprentices.*

Serving-men. Vide *Testimonial.*

Sessions of the Peace.

The Sessions of the Peace is an assembly of any two, or more Justices of Peace (one being of the *Quorum*) at a certain day and place within the limits of their Commission, appointed to enquire by a Jury, or otherwise to take knowledge, and thereupon to hear and determine according to their power, of causes within the commission and statute referred to their charge. *Lamb.* 378.

Sessions held without summons are good, but then none shall lose any thing for default of appearing. *Lam.* 380, 381.

Summons of the Sessions is usually by precept written to the Sheriff, and by him to be returned at the Sessions. *Lam.* 381.

Precept for summoning the Sessions may be made by any

any two Juſtices of Peace, one being of the *Quorum*, but not the *Cuſtos Rotulorum* alone; and ſummons cannot be diſcharged by *Superſedeas* of all the other Juſtices, but by *Superſedeas* out of the Chancery. *Lamb.* 382, 383.

Seſſions held by one Juſtice of Peace is not good, altho it were ſummoned by two, and ſtyled by their names; but by two ſufficient Juſtices Warrant under Seal (*Quorum, &c.*)

Vide the form in *Dal.* it is good, tho it be ſtyled by the name of three. *Lam.* 383. *Dal.* 532.

Quarter Seſſions are to be held four times in the year, (*viz.*) the firſt week after S. *Michael*; the Epiphany; the cloſe of *Eaſter*, after the tranſlation of *Thomas* the Martyr, which is *July* 7. 2 *H.* 5. *c.* 4. *Lam.* 197. *Dal.* 531.

The Eaſter Seſſions by 33 *H.* 8. *c.* 10. are to be holden the Tueſday next after Low-Sunday. *Lamb.* 105.

Juſtices of Peace ſhall hold their Seſſions four times in the year, *viz.* Once within the Octaves of the *Epiphany*; the ſecond, in the ſecond week of Lent; the third, between the Feaſts of Pentecoſt and S. *John Baptiſt*; the fourth, within the Octaves of S. *Michael.* 36 *Ed.* 3. *cap.* 12. *Cro.* 123. b. *nu.* 16. *Dalton* 531.

Where *Crompton* noted, that by 12 *R.* 2. *cap.* 10. it is ordained, that the Quarter Seſſions ſhould be held every quarter of a year at the leaſt, and three days, if need be; by which it appeareth, that the uſual day is not of neceſſity, ſo it be kept within a quarter of a year. *Cro. ib. Dal. ib.*

By the ſtatute 2 *H.* 5. *c.* 4. Juſtices of Peace ſhall keep their Seſſions four times in the year, *viz.* in the firſt week after S. *Michael*; in the firſt week after the Epiphany; in the firſt week *poſt clauſ. Paſchæ*, and in the firſt week after the Tranſlation of S. *Thomas* the Martyr, which is the ſeventh of *July*, and oftner, if need

need be. *Crompton* 123. b. *nu.* 17. *Dalton* 530. *Cro.* 123. b. *nu.* 18. ſaith, that upon the ſtatute of 17 *R.* 2. *c.* 9. (which permitteth to keep Seſſions ſo often as is expedient,) in *Kent* they keep their Seſſions at other times than the times appointed by 2 *H.* 5. *c.* 4. and that it is good.

The place where Seſſions are to be holden is arbitrable; and therefore tho by ſummons they are to be kept in one place, yet they may be kept in another; but then there can be no amerciament for default of appearance. *Lam.* 383, 384. It muſt be within the County. *Dal.* 531.

So in a Town corporate, but not to intermeddle. *Ibid.*

Seſſions appointed to be held in *in confinio comitatus*, in a place known to be infected; or near ſome publick dangers by Enemies, *&c.* the Juſtices appointing are puniſhable by fine, *&c. ib.*

Two Seſſions at one time for one County lawfully ſummoned at two places; both are good, and appearance at one ſhall excuſe default of appearance at the other, and preſentments taken before either of them ſhall be good. *Lam.* 384. Puniſhable, without notice.

At a general Seſſions all matters inquirable by Juſtices of Peace, either by their Commiſſion or by Statute, ought to be given in charge, otherwiſe at a ſpecial Seſſions. *Lam.* 623. and may be held three days. 606. 12 *R.* 2. *c.* 10.

Two ſorts of men ow their ordinary attendance at the Quarter Seſſions, (*viz.*) Officers and Miniſters of the Court, and Jurors of the County. *Lam.* 386.

Officers are, the Juſtices, the *Cuſtos Rotulorum*, where he ought to attend by himſelf, or his deputy. *Lam.* 387. *Dal.* 533.

The Clark of the Peace. *Lam.* 393. *Dal. ib.*

The Sheriff, or his Deputy, to receive Fines, return Juries, execute proceſſes. *Lam.* 395. *Dal. ib.*

Coroners

Coroners that keep the pleas of the Crown, and his own view, *&c.*

The Goaler, to bring the priſoners ſent by *Mittimus*, till Seſſions; ſo for Larcenies, *&c.* to give a Calendar of his priſoners, and to receive others. *Dal.* 533.

The Governor of the Houſe of Correction, with his Calendar of Rogues, and diſorderly perſons; finable, if he make default, by 7 *Jac.* 4 *Dal.* 533.

Miniſters, Bailiffs of Liberties, Conſtables of Hundreds, for giving account of all proceſs. *Dal.* 534.

The Ordinary.

Jurors returned by vertue of the Precept by the Sheriff, for Inquiry and Trial. *Dal.* 533. *Lam.* 396.

Juſtices of Peace making frequent defaults are puniſhable by the Kings Council at diſcretion. 12 *R.* 2. 10. *Quære* whether Privy Council or Judges. *Dal.* 534. So if by information or Inditement *Ib.*

Great men, and men of the Law are exempted by 12 *Rich.* 2. 10. *Dal.* 534.

Jurors not appearing according to ſummons, puniſhable by loſs of Iſſues, the uſual part of the Eſtreats. *Ibid.*

Conſtables making default are finable. *Ib.*

The Juſtices of Peace, if need require, may keep a ſpecial Seſſions by virtue of their Commiſſion, or by the ſtatute 2 *H.* 5. *c.* 4. *Lam.* 623.

Summons of a ſpecial Seſſions is for the moſt part for ſome ſpecial Inquiry, and not to the general ſervice of the Commiſſion. *Lam.* 623.

All matters within the Commiſſion or Statute, may at a ſpecial Seſſions of the Peace be given in charge; yet they are at liberty to give in charge either all or any of them. *Lam.* 623, 624.

If two Juſtices of the Peace, (one being of the Quorum) make a Precept to the Sheriff for the holding a Seſſions at ſuch a place and day, and to return a Jury before them, other Juſtices cannot by their

their *Superſedeas* to the Sheriff inhibit him. *Cro.* 121. b. But the King by his writ of *Superſedeas* may diſcharge it. *Ib.*

A man is bound to appear before a Juſtice of Peace within forty days after; in the mean time a general Seſſions is kept; he ought to appear before the Juſtices at the Seſſions. *Cro.* 123. a. *nu* 8.

A Juſtice commands one on pain of ten pounds by his Precept, to appear at the next Seſſions, and he doth not; no *Scire facias* ſhall go againſt him more than upon a *Sub pœna*, but it ſeemeth he may be attached upon a contempt. *Cro* 123. a. *nu.* 9.

All that come to the Seſſions for publick ſervice, or upon compulſion, upon complaint, and examination of the matter upon oath, ſhall be freed from any arreſt upon Original proceſs. *Lam.* 402. *Cro.* 190. b.

Juſtice of Peace may record a Force, if he be diſturbed in coming to the Seſſions, ſo that he dare not go to the Seſſions, and they ſhall be convicted by that record. *Cro.* 190. b.

Inditements are many times tryed the ſame Seſſions wherein the perſon was indited, nay, the ſame day, before Juſtices of Goal delivery, or Juſtices of Oyer, *&c.* 1 *Cro.* 315, 438, 448. *Dal.* 537.

But in caſe of felony it ſeems very reaſonable to deſer it to the next Seſſions, upon cauſe ſhewn; it being ſo in an Inditement of Nuſance generally, and life more to be valued, and favoured, *&c. Dal.* 537.

Vide 22 *Ed.* 4. *Coron.* that Inditements ſhall not be tried the ſame Seſſions.

Many things (of great import) cannot be done but at the Seſſions; and many things but at ſuch a particular Seſſions. *Dal.* 537.

Of the firſt ſort are; the diſcharge of Apprentices ill uſed: Badgers licenſed: Officers ſworn (after the Sacrament received, proved,) and declaring againſt Tranſubſtantiation, according to 25 *Car.* 2. *Dal.* 538.

Of

Of the ſecond ſort are; taking Accounts of Treaſurers for maim'd Soldiers, and for charitable uſes, &c. 43 *El.* in Eaſter Seſſions; the rates of wages in Eaſter Seſſions, or in ſix weeks after. *Dal.* 538.

None above a Knight ſhall take the wages for ſerving at the Seſſions, nor above eight Knights at a time, by 14 *R.* 2. 11. *Quære* if a Knight ſhall, becauſe a Banneret ſhall not. *Ib.*

Eſtreats duplicated; one part to the Juſt. delivered to the Sheriff to levy, and pay the Juſtices wages, by indenture with the Juſtices names. 14 *R.* 2. 11. *Dalton* 538.

Making orders in the Chamber after Adjournment of the Seſſions; and too ſudden diſcharging Orders of Seſſions (as for Baſtard Children, and Settlements) of ill uſage, and to be avoided. *Dal* 538. *Vide Pridgens* Caſe. 1 *Cro.* 341, 350.

The manner of holding Seſſions. *Vide* at large, *Dal.* 535.

Sewers.

Commiſſion of Sewers being expired, ſix Juſtices of Peace, two being of the Quorum, may for one year after execute the Laws of Commiſſioners of Sewers, unleſs a new be publiſhed. 13 *El. c.* 9. *Dal.* 219.

Vide the many ſtatutes and their ſorts *Ib.*

Vide the Commiſſioners power for repairing and taxing. 10 *Co.* 138, 139, 140, 141, 142.

Sheep.

To tranſport Sheep, or procure them to be tranſported, is forfeiture of Goods to the King and party proſecuting, impriſonment a year, and loſs of the left hand in open market; and the ſecond offence is felony. 8 *El.* 3.

Juſtices of Peace have power to inquire, hear and determine offences againſt this Act. *Ib.*

The proſecution ſhall be in a year; the proceſs as in Treſpaſs, and the Fines no leſs than the forfeitures. 25 *H.* 8. 13.

Any keeping at one time above two thouſand ſheep of all ſorts againſt the purport of the ſtatute, loſeth three ſhillings four pence for every ſheep above two thouſand. 28 *H.* 8. *c.* 13.

It ſhall not extend to Lambs under a year old, nor to ſheep coming by Executorſhip, or marriage; ſo as in a year he reduce them to two thouſand; nor to ſheep bequeathed, nor kept in his own demeans. *Ib.*

Vide Calves and Kine, *Main.*

Sheriff.

The *Cuſtos Rotulorum*, or eldeſt of the Quorum in his abſence, is to appoint at *Michaelmas* Seſſions, two Juſtices of Peace, whereof one of the Quorum, to have the overſight and controlment of the Sheriff, Under-ſheriff, their Officers and Deputies, and of their Books and Amerciaments in their County Courts; and either of theſe two Juſtices, or one Juſtice of the Peace, may examine the Sheriff, or Under-Sheriff, and Plaintiff concerning the taking and entring plaints in their Courts, and Books againſt the ſtatute. 11 *H.* 7. *c.* 15. *Dal.* 222. *Lam.* 201, 295, 600.

The particulars are, *Dal.* 137. *Lam.* 431.

1. If any plaints be entred in their books in any mans name, the Plaintiff or ſufficient Attorney not being in Court.

2. If the plaintiff find not pledges to purſue his plaint, *viz.* ſuch as are known in that County.

3. If they enter more plaints than one for one treſpaſs, or contract.

4. If they enter more plaints than the plaintiff ſuppoſes

poſes he hath cauſe of action for againſt the defendant.

If upon examination the Juſtices find any default, it ſhall ſtand for conviction without further inquiry of examination, and they forfeit forty ſhillings to the King, and to the Informer for every default, and the Juſtices muſt certifie the examination to the Exchequer within a quarter of a year, on pain of forty ſhillings. *Dal.* 123.

The like for Bailiffs of Hundreds, in not warning the Defendants to appear. *Ib*

Sheriff ſhall make no eſtreats to levy their Sheriffs amerciaments, until the two Juſtices have had a view and overſight of the Books, and the ſaid eſtreats ſhall be indented betwixt the ſaid Juſtices and Sheriff, or Under-ſheriff, under their ſeals. *Ib.*

The ſaid two Juſtices, or one of them may examine the defaults of Collectors of Sheriffs amerciaments, whoſe finding of default is a ſufficient conviction and forfeiture of forty ſhillings, the examination to be certified into the Exchequer. *Ib.*

The ſaid Juſtices, upon information of the party grieved, may make like proceſs, as in action of treſpaſs againſt the Sheriff, *&c.* to appear then to anſwer the ſaid information or ſuggeſtion. *Ib.*

Sheriff ought to be at the Seſſions, to return his precept, and keep his priſoners. *Lam.* 395. To receive fines, and execute proceſs. *Dal.* 533.

Where Judgment of Tranſportation in caſe of Felony is given, the Sheriff ſhall convey, and ſee the party imbarqued. *Dal.*

In these Cases following, the Sheriff, &c. doth forfeit forty pounds, and treble damages to the party grieved. 23 Hen. 6. c. 10. Lam. 430, 431.

1. Sheriff that letteth his Bailiwicks or any of his Hundreds.

2. Or returneth in any panels any Bailiffs, Officers, servants, or servants servants.

3. Or refuseth to bail those that are bailable, offering sufficient surety.

4. Or taketh any obligation by colour of his Office, but only to himself, and upon the name of his Office, and upon condition only to appear according to the writ or warrant.

5. Or having taken for any arrest above twenty pence.

6. Or above four pence for any obligation, warrant, or precept.

7. Or he, or any other Minister having taken any thing for making any return or panel.

8. Or above four pence for the copy of a panel.

9. Bailiff for taking above four pence for making an arrest.

10. Goaler taking above four pence of any committed to his ward upon arrest or attachment.

11. Sheriff, or his ministers, that shall levy any of the Kings debts, without shewing the party the estreats under the Exchequer seal, shall be fined and pay treble damages to the party. 7 *H.* 4. *c.* 3. 42 *Ed.* 3. *c.* 9. *Lamb.* 432.

12. Sheriff, or other his minister, arresting, imprisoning, ransoming of, or levying any amerciaments by reason of any Indictments or Presentments made in the Sheriffs Turn, without process first obtained from the

the Juſtices of Peace; or that hath not brought in ſuch Indictments and Preſentments to the Juſtices of the Peace at the next Seſſions, loſeth forty pounds *Lamb.* 431. 1 *Ed.* 4. 2. Sheriffs of *London* excepted. *Ib.*

Sheriff returning a Juror not able to expend four pounds *per annum*, forfeits twenty ſhillings. *Dal.* 224.

Sheriff, or any other, who may make return of any Writ, that returneth any Juror, without true addition of the place of his abode, or within a year next before, or without ſome addition, by which the Juror might be well known, loſeth five marks to the King, and five marks to the party. 27 *El. c.* 7. *Lam.* 432. *Dal.* 223.

So no eſtreat of Iſſues againſt a Juror without addition. *Dal.* 224.

The Sheriff returning one ſummoned (falſly) forfeits double the iſſues. *Ib.*

Sparing any Juror, to have reward therefore; five pounds forfeiture. 27 *El* 6.

Sheriff, or Goaler denying to receive felons by the delivery of any Conſtable or Townſhip, or having taken any thing for receiving ſuch, is finable. 4 *E.* 3. *c.* 10. *Lam.* 434.

Sheriff, Bailiff, or other Officer or perſon refuſing to pay over to the Churchwardens, *&c.* the moiety of the forfeitures by the ſtatute of 4 *Jac.* againſt uttering of beer or ale to alehouſe-keepers unlicenſed, forfeiteth double value. 4 *Jac. c.* 4. *Lam.* 434.

Juſtice of Peace being choſen Sheriff, his authority of Juſtice is ſuſpended during his Sheriffwick; but after another is choſen and ſworn, his authority as a Juſtice of Peace is as it was before without any new oath, except he be left out of the Commiſſion. *Dal.* 12, 224. 12 *Cro.* 121. 2. *nu.* 13, 14.

All Acts done by him that year by vertue of his Commiſſion, are void by 1 *Ma.* 8. *Dal.* 225.

Sheriff, Under-ſheriff, *&c.* ſhall take no more for any execution, but twelve pence in the pound for the

firſt hundred pounds, and ſix pence for every pound above an hundred pounds upon pain of treble damages ſaid to the party, and forty pounds to the King and Informer for every time. 29 *El.* 4.

And twelve pence, *&c.* ſhall not be taken to be paid where the execution is an hundred pounds or under, and if more (ſuppoſe an hundred and ſixty pounds,) then but ſix pence for every pound of the hundred and ſixty, but ſix pence for every pound more than the firſt hundred (an hundred ſhillings, and ſixty ſixpences) *Cro.* 287.

And the proviſo that it ſhall not extend to executions within a Corporation, ſhall be intended for executing Judgments in the Corporation Courts, and not to the Sheriffs of Corporations, *&c.* executing Judgments out of Superior Courts. 1 *Cro.* 287.

Sheriffs, Deputies, Clarks, Bailiffs of Franchiſes before they execute their Office, ſhall take the Oaths of Supremacy, and of the Office; (*vide* the form. *Dal.* 225.) upon forfeiture of forty pounds to the King and Informer; and the Juſtices ſhall determine, and award execution by *Capias*, *Fieri fac.* *&c.*

And the *Cuſtos Rotulorum*, or two Juſtices (*Quorum unus*, *&c.*) ſhall take ſuch Oaths of ſuch Officers *ex officio*, without ſpecial Commiſſion. *Dal.* 225.

The Sheriff cannot take bond for his fees by 23 *H.* 6. 1 *Cro.* 287, 150.

A Sheriffs Under ſheriff is but his deputy, and removable as an Attorney, tho made irrevocable. *Hob.* 13.

An Under-ſheriff ſeiſing five hundred pounds Goods (for three ſhillings (returning ſo in the Exchequer, that he ſeiſed but to three ſhillings value) forfeited for Larceny) and in undue manner procuring one to be convicted, by returning two of his ſervants of the Jury; this was adjudged a great miſdemeanor, and an Information awarded in *B. R.* 1 *Cro.* 567.

Shoes.

Shoes.

Making ſhoes, pantofles, *&c.* contrary to the rules preſcribed in the ſtatute, loſeth three ſhillings four pence for every pair of ſhooes, *&c.* and the value of of them. 1 *Jac. c.* 22. *Lam.* 465.

Shewing of Boots, *&c.* on a Sunday, with intent to ſell them, loſeth three ſhillings four pence, aud the value of them. 1 *Jac. c.* 22. *Lam:* 466. *Vide* Leather.

Shooting.

Any under the degree of a Lord of the Parliament, ſhooting within any City or Town at any fowl, or other mark, upon any Church or dove cote; or any ſhooting in any place any hail-ſhot, or more pellets than one at a time; every time offending forfeiteth ten pounds, and impriſonment for three months. 2 *Ed.* 6. *c.* 14.

Shooting at one that comes to burn his houſe, juſtifiable.

Vide Homicide.

Perſons keeping Hawks may ſhoot (by licenſe from the Seſſions) at Crows for Hawks meat only, entring recogniſance not to ſhoot at fowl prohibited, nor within ſix hundred paces of a Hernery, or Pidgeon Houſe, nor in any Forreſt, Chaſe, or Park, of which the King is not owner. 1 *Jac.* 27.

Vide Archery, Croſs-bows, Partridges.

Silk, Silk-Thrower.

Silk-winder, and Doubler, embezelling, *&c.* any Silk delivered to them to wind, *&c* upon conviction, before any Juſtice by one witneſs, or if in a Corporation,

ration, before the Magiſtrate; ſhall make ſatisfaction as the Juſtices, *&c.* ſhall order according to the damage and charges: and if unable, he ſhall be whipped, or ſtock'd, *&c.* 14 *Car.* 2. 15.

The receivers and buyers puniſhed alike. *Ib.*

None ſhall trade, unleſs he has been an Apprentice ſeven years; upon forty ſhilling a month pain to the King and Informer. 14 *Car.* 2. 15. *Dal.* 226.

A Freeman may ſet on work any Native, to turn the Mill, tie threds, double ſilk, wind ſilk as formerly, tho they have not ſerv'd ſeven years. *Ib.*

Skinner.

No Tradeſman ſhall dreſs in their houſes, or by Workmen not uſing a skinners Trade, any black Coney-skins, nor tranſport ſuch of English Breed, unleſs well tawed, dreſſed and packed by skinners, *&c.* upon forfeiture thereof, or their value. 3 *Jac.* 9. *Dal.* 226.

No Merchant ſhall buy any Coney-kins, or Lamb-skins, (Morkins) of English breed (or being here) under a thouſand black Coney-skins, or three thouſand Grey; or two thouſand Lambskins (Morkins) at a time; and not by parcels, except of skinners; nor ſell them again here in ſmall parcels under ſuch numbers; upon forfeiture thereof, or their value. 3 *Jac.* 9. *Dal.* 227.

None ſhall keep any ſervant to work, except he have ſerved ſeven years, and uſe the Trade; upon double the value of the skins wrought forfeiture to the King and Informer. *Ib.*

Sope. Vide *Veſſels.*

Soldiers.

Soldiers.

Soldier ſerving the King by Sea or Land, doth willingly give, purloin, or put away any horſe, or harneſs wherewith he was ſet forth, or being taken from other Soldiers was appointed to him; upon complaint thereof to a Juſtice of Peace, ſhall be committed without bail, till he have made ſatisfaction, unleſs he have been formerly puniſhed by the General or other; or ſhew forth in writing under ſeal the lawful loſs thereof. 2 & 3 *Ed. 6. cap.* 1. *Lamb.* 194. *Dal.* 227.

Soldiers paſſing out of the Realm to ſerve any foreign Prince, not having before their paſſage taken the Oath of Allegeance before the Officer appointed thereunto; it is felony. 3 *Jac. c.* 4. *Dal.* 390.

Soldier being a Gentleman, or of a higher degree, or Captain, or other Officer in Camp, paſſing to ſerve any foreign Prince, *&c.* before they be bound to the King with two ſureties before the Officer appointed, not to be reconciled to the Pope, *&c.* or to conſent to any conſpiracy againſt the King, but to diſcloſe all conſpiracies upon knowledge thereof, *&c.* it is felony. *Ibid.*

Soldier entred upon Record, and having taken preſs-money, departeth without licence; it is felony. 7 *H.* 7. *c.* 1. 3 *H.* 8. *c.* 5. *Dal.* 288. Or if they depart without licenſe after they have ſerved in the Kings Wars. 2 *E.* 6. *cap.* 2. *Dal ib.* So of Mariners and Gunners that have taken preſs-money to ſerve the King on the ſea, and come not unto, or depart from the Captain without licenſe; it is felony. 5 *El. c.* 5. *Dal.* 398. *Quare.*

In

In theſe Caſes following, by the ſtatute 39 El. c. 17. *Soldiers and Mariners do become Felons.* Dal. 391.

Such which ſet not themſelves to ſome lawful courſe of life, but wander up and down idly, not having a lawful Teſtimonial (if they come from beyond Sea) from ſome Juſtice of Peace near the place of their landing, expreſſing the place and time of their landing, the place to which they are to paſs, and a time limited for their paſſage; or having ſuch a Teſtimonial, if they ſhall exceed the time limited.

To forge or counterfeit ſuch Teſtimonial, or to have a forged Teſtimonial, knowing that it is forged.

Or being retained in ſervice after his arraignment, &c. if he depart within the year without licenſe of his Maſter.

Poor Soldier, or Mariner, or Sea-faring man ſuffering ſhipwrack, may have a licenſe, or teſtimonial, from a Juſtice of Peace next to his landing, to paſs to the place of his repair, and may ask and receive neceſſary relief in his direct paſſage, within the time limited to him. 39 *El. c.* 4. 39 *El. c.* 17. *Dal.* 210. *Lam.*303. 21 *Jac. c.* 28.

And if he fall ſick by the way, he ſhall not incur the penalty; and when he comes to the place, two Juſtices may order him work, or tax the Hundred for his relief.

Every pariſh is to be taxed to the relief of diſabled Soldiers, by the greater part of the Juſtices at their Quarter Seſſions next after Eaſter, ſo as no pariſh be above ten pence, nor under two pence weekly to be paid, ſo as the total ſum in any County where there ſhall be above fifty pariſhes, do not exceed ſix pence every pariſh. 43 *El. c.* 3. *Dal.* 227.

The ſaid Taxation to be aſſeſſed within themſelves, and

and in default thereof by the Churchwardens and Pety Conſtables, or the greater part of them; in default thereof, by the Juſtices or Juſtice of Peace dwelling in the ſame pariſh; or, if none be there, in the pariſh next adjoyning. *Ib.*

In default of payment of the ſame Aſſeſs, the Church-wardens and Pety Conſtables may levy it by diſtreſs and ſale, *&c.* and in their default, the aforeſaid Juſtices or Juſtice of Peace. 43 *El. c.* 3. *Dalt.* 228.

The Churchwardens and Pety Conſtables are to pay over their collections to the High Conſtable ten days before every Quarter Seſſions, and the High Conſtables at every Quarter Seſſions are to pay it over to the Treaſurer. *Ib.*

If any of them make default, then the Churchwardens or Pety Conſtables forfeit twenty ſhillings, and every High Conſtable forty ſhillings, to be levied by the Treaſurer by diſtreſs and ſale for augmentation of the ſtock. *Ib.*

Treaſurer for maimed Soldiers muſt be ten pounds in lands, of fifteen pounds in goods, in the ſubſidy, and continue but for a year, and within ten days after Eaſter Seſſions following to give account to his Succeſſor; in default thereof or for other miſdemeanor in his office, to be fined five pounds, or above by the more part of the Juſtices of Peace. *Ib.*

Soldier or Mariner, ſick or maimed by ſervice in his Majeſties pay, upon lawful certificate thereof by the general Muſter-maſter or Receiver of the muſter rolls, Treaſurer, or Controller of the Navy under his hand, is to come to the Treaſurer of the County where he was preſt, or if he were not preſſed, then to the Treaſurer of the County where he was born, or laſt dwelt three years, if he be able to travel ſo far, or otherwiſe to the Treaſurer of the County where he landed, by him to be relieved according to his diſcretion till the next Quarter Seſſions, at which time the more part of the

the Juſtices may according to their diſcretions grant him a penſion during his life, if the ſaid penſion be not duly revoked or altered. *Ib.*

Soldiers and Mariners ſet on work by two Juſtices, and the Hundred taxed for their relief till work had. *Dal.* 230.

Treaſurers are to make payment quarterly of ſuch penſions as ſhall be granted by the moſt of the Juſtices at the Quarter Seſſions under their hands, and by them to be fined, if they refuſe to pay them. 43 *El. c.* 3 *Dal.* 228.

Penſions of Soldiers and Mariners, not having born offices, are not to be above ten pounds, under the degree of a Lieutenant fifteen pounds, a Lieutenant twenty pounds. 43 *El. c.* 3. Penſions are revocable or alterable at the diſcretion of the Juſtices in the Quarter Seſſions. *Ib.*

Treaſurer where any maimed Soldier or Mariner ſhall arrive, upon certificate (tho not allowed) may give a Teſtimonial of his own allowance, and convenient relief to carry him to the next County, leading him to the place where the general Muſter-maſter ſhall be; and ſo may the Treaſurer of each County, leading him thither, and from thence to the County where he is to have his penſion. *Ib.*

Treaſurer is to enter into a Book money received and diſburſed, with the parties names and certificate to whom it was payed. *Ib.*

Treaſurer not allowing a Certificate in the Act of 43 *El. c.* 3. expreſſed, muſt endorſe the cauſe thereof on the Certificate. 43 *El. c.* 3. *Dal.* 229.

Soldier or Mariner counterfeiteth a certificate, or having a penſion beggeth, he ſhall loſe his penſion, and be adjudged a Rogue. *Ib.*

Soldier or Mariner that cannot be relieved in the County where he was preſſed, by reaſon that the whole taxation is imployed, ſhall be relieved where he was born or dwelt the laſt three years at his election. *Ib.*

Overplus

Overplus of the ſtock for maimed Soldiers is to be imployed by the greater part of the Juſtices at the Quarter Seſſions to ſuch charitable uſes as are ſet down in the ſtatute for poor, except it be by them reſerved for future penſions. 43 *El. c.* 3.

Juſtices of Peace of the County ſhall not intermeddle in the Corporation. 43 *El. c.* 3 *Dal.* 229.

For relief of thoſe who have hazarded (or the relations of thoſe who have loſt) their lives, and loſt their limbs and fortunes in the Kings or his Fathers ſervice, every parish ſhall be charged weekly to the payment of ſuch ſum as they have been rated by 43 *El.* And ſuch further ſum as the Juſtices in their Quarter Seſſions ſhall judge meet to be aſſeſſed on every Parish, or Chappelry, that has diſtinct Officers; ſuch additional ſum not exceeding two ſhillings ſix pence, nor be under three pence in any parish in each week: to be levied according to 43 *El. cap.* 3. 14 *Car.* 2. *cap.* 9. *Dal.* 229.

Soldiers or Mariners maimed, aged, indigent, diſabled by the late wars, or uſurped Powers, repairing to the place of his laſt ſettlement before he ſerved, with a certificate of his ſervice and hurts under his Captains or Commiſſion Officers hand, and to the two next Juſtices upon examination upon oath of the truth of the Certificate, ſhall have relief aſſigned till the next Quarter Seſſions, where a yearly penſion ſhall be ſettled under the power of revaction appointed by 43 *El.* 14 *Car.* 2. 9. *Dal.* 229.

If the Captain or Officer be dead, two Juſtices upon requeſt of perſons of credit, may give relief as upon examination. 14 *Car.* 2. *c.* 9. *Dal.* 229.

Quære if the Juſtices in the Seſſions may grant penſions without ſuch Certificate. *Dal.* 229.

Widows and Orphans of ſuch Soldiers, *&c.* ſhall have ſuch relief from the Treaſurers out of the ſurpluſage after penſions paid, as two Juſtices ſhall think fit.

Vide Captains, Muſter.

Spices.

Spices.

All ſorts, and merchandiſes garbleable in *London* and the Liberties, ſhall for the uſual fees be garbled by the Garbler, or Deputy before they be ſold upon forfeiture thereof, or the value ſold; and ſo, if afterwards mixt with Garbles. 1 *Jac.* 19. *Dal.* 231.

The Garbler of *London*, Deputy, or aſſigns, may enter (in the day time) any houſe, ſhop, &c. to ſee if the wares, &c. be garbled; if not, to cleanſe them, &c. forfeiture ſhall be to the King and Informer. *Ib.*

Star-Chamber.

The experience of the Star-Chamber was the beſt guide and direction for a Juſtice of Peace. *Lamb.* 175.

It was put down by 17 *Car.* 1.

Stoln Goods.

After attainder upon evidence by the owner, the ſtoln goods are to be reſtored to the owner by writ of reſtitution awarded by the Juſtices before whom the attainder was. 21 *H.* 8. *c.* 11. *Lam.* 586. *Dalt.* 409. *Cro.* 191. 2. *Vide* Reſtitution of ſtoln Goods.

Stewards of Courts.

Stewards of the Sheriffs Turn, Leet, or Pypowders, cannot grant ſurety of the peace unleſs it be by preſcription, but every of them may commit him to ward that ſhall make an affray in their preſence whilſt they be in execution of their Office; which the ſteward in a Court Baron cannot do. *Lam.* 14; *Dal.* 210 *H.* 6. *c.* 7. *Br. Leet* 36.

A ſteward

A ſteward may be retained by parol, and it is good till he be diſcharged, and he may take ſurrenders out of Court. 4 *Co.* 30.

Steward *de facto* (not *de jure*) may take preſentments of nuſances, and admit Copyholders. 3 *Cro.* 699. But not make new grants. *Ib.*

The ſteward may take fealty for the Lord; ſo a Bailiff. 1 *Inſt.* 68. a.

Stocks.

Conſtables generally can impriſon only in the ſtocks; and that but till aid comes to convey the Delinquent to a Juſtice of Peace or Goal. But *vide* Conſt.

Juſtices of Peace may ſet in the ſtocks offenders againſt ſome penal ſtatute. *Dal.*

A Conſtable impriſoning in the ſtocks one ſuſpected for felony, may lock the ſtocks, and put Irons on him, and pinion him, or otherwiſe ſecure him from eſcaping, in conveying him to the Juſtice of Peace. *Dal.* 473.

The eſcaping of a perſon out of the ſtocks, or cuſtody, is breach of priſon. *Lam.* 229.

Drunkards ſet in the ſtocks ſix hours, if unable to pay the fine of five ſhillings. 4 *Jac.* 5. So for tipling, and not able to pay the penalty. *Ib. Dal.* 29. four hours.

Labourers and Artificers refuſing to work in Harveſt time, ſhall be ſet in the ſtocks by the Juſtices order two days and one night, under the Conſtable, or Head-Officers forfeiture of forty ſhillings. 5 *El.*

Conſtable may ſet in the ſtocks affrayers that ſtrike him. *Dal.* 37.

For want of payment of three ſhillings ſix pence forfeiture for ſporting on a ſunday. 1 *Car.* 1. 1.

Clothiers workmen embezelling, &c. ſtock'd for the ſecond offence, or whipped. *Vide* Cloth.

For ſwearing, and default of payment of twelve pence, ſtocks for three hours. 21 *Jac.* 20. 3 *Car.* 1. 4.

Watchmen

Watchmen have power to ſet in the ſtocks ſuſpected perſons. *Dal.* 239.

Reſcuing one in the ſtocks for ſuſpicion of Felony, tho not indicted; is Felony *Cro.* 35. a. *num.* 3.

The Conſtable may impriſon in the ſtocks, one that is to find ſureties for the Peace, if he make reſiſtance. *Vide* ſurety for the Peace for embezelling ſilk delivered by a ſilk-thrower, whipping, or ſtocks, if unable to make ſatisfaction. 14 *Car.* 2. 15. *Dal.* 226.

For default of diſtreſs the offender againſt 29 *Car.* 2. for keeping the Lords day, ſhall be ſet in the ſtocks two hours. *Ib.*

Stock of the Shire.

The parishioners, and in their default the Churchwardens and Conſtables are to aſſeſs the tax impoſed upon the parish by the Juſtices at Eaſter ſeſſions, towards the relief of the priſoners in the Kings Beneh, Marshalſey, Hoſpitals, and other loſſes by fire, &c. In default of them, any Juſtice of Peace dwelling in that parish, or (if none dwell there) the next Juſtice may aſſeſs the ſame; and the ſame Juſtice of Peace, or any other Juſtice of Peace in that limit, in default of the Churchwardens and Conſtables, may levy the ſame by diſtreſs and ſale of the offenders goods, rendring to the party the overplus, and in default of diſtreſs, may commit ſuch perſons without bail till they pay the ſame. 43 *El. c.* 2. *Dal.* 231.

So toward relief of maimed ſoldiers, *mutatis mutandis*, only the Juſtices may not commit. 43 *El. c.* 3. *Dal.* 231.

In all taxations, obſerve the rules, (*Dal.* 231.) in (Title) Taxation.

If the greater part will not meet, the Officers and ſuch as will meet, may tax. *Dal.* 233.

Where a man is charged by Goods, they muſt be

de bona notabilia. *Dalton* 232. *Vide* Taxations.

Subsidy.

Upon proof before two Justices of Peace, that a Subsidy-man by covin hath escaped taxation, they shall charge him at double the value of so much as he ought to be taxed at, and he shall be further punished at the discretion of the said Justices. *Lam.* 336. *Dal.* 233. *Vide* 7, 21 *Jac. &c.*

Impositions upon the Law for nine years from *May* 1, 1671, were (for so much as they concern Justices of Peace, and Clarks of the Peace or Sessions.) *Dal.* 333.

For any Conveyance, Surrender, Release, or Deed inrolled, five shillings.

Recognizance inrolled, or entred, seven shillings six pence.

This was sometime paid, but since forborn.

The Clark of the Peace to receive the duty, and enter it, and account upon Oath when required, and make payment the first days of *Michaelmas*, *Easter* and *Hilary* Terms, to whom the King appoints, upon pain of ten times the money; and for the second offence loss of Office.

There are forty statutes relating to the authority of a Justice of Peace, continued by a Subsidy Act, 17 *Car.* which is necessary to be noted, for the improbability of finding such continuances there. *Dal. Pref.*

Suggestion. Vide *Information.*

Summons of the Sessions. Vide *Sessions.*

Sunday.

All perſons ſhall diligently and faithfully reſort to their Pariſh Church, or Chappel accuſtomed, or upon reaſonable let to ſome uſual place where Common Prayer ſhall be uſed, upon every Sunday, and other day ordained and uſed to be kept Holy-day, and then and there to abide orderly and ſoberly during the time of Common Prayer, Preaching, or other ſervice of God, or loſe twelve pence for every offence, to be levied by the Churchwardens there, to the uſe of the poor, by way of diſtreſs. 1 *El. cap.* 2. *Dal.* 183 tho he be Popiſh Recuſant convict, or not convict. *Ib.*

If any ſubject do not reſort and repair every Sunday to ſome Church or Chappel, or ſome uſual place appointed for Common Prayer, and there hear Divine Service, according to the ſtatute 1 *El. c.* 2. it ſhall be lawful for a Juſtice of Peace of that limit, upon proof by confeſſion of the party, or oath of a witneſs, to call the party before him; and if he or they make not a ſufficient excuſe, to the ſatisfaction of the ſaid Juſtice, then to give warrant to the Churchwardens of the ſaid pariſh under his hand and ſeal to levy twelve pence by diſtreſs to the uſe of the poor for every default, and for want of diſtreſs, to commit the offender to priſon; every offender to be called in queſtion within one month after the offence. 3 *Jac. c.* 4. *Lam.* 418. *Dal.* 183.

None puniſhed according to the branch of the ſtatute of 3 *Jac. c.* 4. ſhall be puniſhed by *El. c.* 2. for the ſame offence. 3 *Jac. c.* 4.

There ſhall be no meeting, aſſemblies, or concourſe of people for any ſports or paſtime out of their own pariſhes on the Lords day; nor Bear-baiting, Bull-baiting, Interludes, common plays, or other unlawful exerciſes within their own pariſhes; upon forfeiture of three

three ſhillings four pence to the uſe of the poor, upon view of one Juſtice of Peace, confeſſion of the party offending, or oath of one witneſs, to be levied by warrant of the ſaid Juſtice under his hand and ſeal to the Conſtable and Churchwardens; in default of diſtreſs, the offender to ſit in the ſtocks three hours. The offender to be queſtioned within one month 1 *Car.* 1. *Dal.* 89, 219.

Carriers, Waggoners, Wainmen, Drovers, ſhall not travel with horſe, waggons, carts, or cattel upon Sunday, upon pain of twenty ſhillings for every offence. Neither ſhall any Butcher kill, or ſell any victual upon ſunday, on pain of ſix ſhillings eight pence, upon view of one Juſtice of Peace, confeſſion of the party, or oath of two witneſſes; the penalty to be levied by the Conſtable or Churchwardens to the uſe of the poor, by warrant of any Juſtice of Peace by diſtreſs, or by any that will ſue for the ſame at the Quarter Seſſons in the ſame County within ſix months, his reward not to be above the third part. 1 *Car. c.* 1. *Dal.* 218.

Shewing of Boots on the ſunday, with intent to ſell them, loſeth three ſhillings four pence, and the value of the Boots. 1 *Jac. c.* 22. *Lam.* 466. *Dal.* 219.

The Hundred ſhall be charged for a robbery on a ſunday. 2 *Cro.* 497.

Sale on a ſunday not good. 12 *Ed.* 4. 1. *Dal.* 138, 139.

None ſhall trade or work in his Calling on the Lords day, but (being fourteen years of age) ſhall forfeit five ſhillings for every time he does, and the goods ſhewn, or cryed for ſale. 29 *Car.* 2.

No Drover, Horſe-courſer, Waggoner, Butcher, Higler (or ſervants) ſhall travel or come to, and lodge in their Inn upon the Lords day, upon twenty ſhillings forfeiture for each offence; nor ſhall any travel in, or imploy any boat, *&c.* (except upon extraordinary occaſion, to be allowed by a Juſtice of Peace, or Magiſtrate) upon five ſhillings forfeiture each time.

And the Juſtices ſhall give a warrant to the Conſtables or Churchwardens to ſeiſe the goods ſo expoſed to ſale, and levy the forfeitures by diſtreſs and ſale (rendring the overplus to the owner) or, in default of diſtreſs, ſet the offender in the ſtocks for two hours: which Forfeitures ſhall be to the poors uſe, abating only the reward to the Informer, not exceeding a third part. *Ib.*

This Act extends not to dreſſing of meat in Families, Inns, Cooks, or Victualling Houſes, or ſelling milk before nine in the morning, or after four in the Afternoon; nor unleſs the offence be proſecuted in ten days.

No perſon robbed in travelling on the Lords day, ſhall bring any Action againſt the Hundred therefore; but the Country or Hundred ſhall (upon notice) make freſh ſuit according to 27 *El.* upon forfeiture of the money thereby to have been recovered.

No Proceſs, *&c.* ſhall be ſerved then (except in Treaſon, Felony, or Breach of the Peace) but the perſon ſo ſerving ſhall be as liable to the parties Action, as if he had done it without Writ, Proceſs, *&c.* and the ſervice void.

Superſedeas.

Superſedeas is ſufficient, tho it neither name the ſureties, nor contain the ſum wherein they are bound; but it is better if it do both. *Lam.96. Dal.* 273.

Superſedeas delivered to the Officer, if he urge new ſureties, the party may refuſe; and if he be committed, he may have his action. *Lam.99. Dal.* 273.

Superſedeas out of the Chancery will diſcharge ſurety of the Peace in the Kings bench, and either of them a precept for the peace awarded by a Juſtice of Peace; and an attachment lieth againſt him if he ſurceaſe not, and he may be impriſoned and fined for it. *Lam.99. Dal.* 273, 274.

Superſedeas

Superſedeas received by a Juſtice of Peace out of an higher Court, he ſhould forbear to make any warrant, or if one be made, to ſend out his *Superſedeas* to the Sheriff, or other Officer, to deſiſt to put it in execution, tho awarded againſt Law. *Dal.* 274. *Lam.* 99.

Superſedeas out of the Chancery is to be certified at the next Seſſions, together with the recognizance for the Peace; if the *Superſedeas* do teſtifie that he hath found ſurety in the Chancery only unto a certain day, which day is after thoſe Seſſions, if the *Superſedeas* come to his hands after his recognizance taken. *Dal.* 274. *Lam.* 113. For peradventure the recognizance was broken before the *Superſedeas* purchaſed.

Superſedeas for the good behaviour. *Quære* if it may be granted by a Juſtice of Peace. *Lam.* 123. *Dalt.* affirmeth it. 292.

A *Superſedeas* made by a Juſtice of Peace, and returned under his ſeal, is a ſufficient record to prove a recognizance taken for the Peace, and warrant to call the party bound, and if he make default, to record the ſame. *Lam.* 97.

If a Juſtice of Peace will by a *Superſedeas* diſcharge a precept for the Peace awarded by another by virtue of his Office, and not by *Supplicavit*, the recognizance would be taken according to the form of the precept. *Lam.* 96. *Dal.* 172.

Certiorari to remove a record is in it ſelf a *Superſedeas* to the Juſtices, yet the party may have a *Superſedeas* to the Sheriff that he arreſt him not upon the Juſtices record. *Lam.* 515.

Whether the Juſtices *ex officio*, after a *Certiorari* ought to award their *Superſedeas* to ſtay proceeding upon the record. *Quære Lam. ib.*

An *Exigent* awarded againſt one indicted of Treſpaſs before the Juſtices of Peace, may be ſtayed by *Superſedeas* out of the Chancery, upon ſurety found there to appear at the day in the Writ, tho he be taken upon it. *Lam.* 526, 527.

So by *Superſedeas* granted by two Juſtices of Peace, one being of the Quorum, teſtifying that he hath found ſureties *de fine aſſidendo. Lam. ib.*

Yet *Dalton* and *Crompton* ſay, by one Juſtice of Peace. *Dal.* 319. *Cro.* 234. 2.

If a *Superſedeas* be directed to the Juſtices of Peace and Sheriff, the Juſtice to whoſe hands it ſhall be delivered, may keep it, and deliver the label to the party. *Dal.* 173.

Superſedeas granted for the Peace, or Good Behaviour, out of the Chancery or Kings Bench, is void, unleſs it be upon motion in open Court, and upon ſureties of five pounds in land, or ten pounds in goods in ſubſidy, and unleſs it appear to the Court, that ſuch proceſs of P. or good behaviour is proſecuted againſt the deſirer of ſuch *Superſedeas bona fide* by ſome grieved in that Court, out of which the *Superſedeas* is deſired 21 *Fac. c.* 8. *Dal.* 275.

Whether the party bound, ſending the *Superſedeas* to the Seſſions, be diſcharged of his appearance there. *Quare Dal.* 274. *Lam.* 113. The precedents are, that the party appeared and prayed allowance, *&c. Dalton* 274.

May be granted out of the Kings Bench or Chancery.

Supplicavit.

The forms of a *Supplicavit* out of Chancery are divers. *Vide Fitz. N. B.* 80. *d. Reg.* 89.

He only to whom the Writ of *Supplicavit* is delivered, muſt execute it. *Dal.* 286.

The Juſtice that receiveth the Writ, may make the Warrant to the Conſtable or other party indifferent, and if he refuſe to find ſureties, to carry him to priſon. *Dal.* 287.

The party attached can be bound only before him that

that ſent out the Warrant; againſt him only that ſues out the Writ. *Fitz. N. B.*

But otherwiſe at this day: againſt all perſons; *alicui de populo noſtro, &c.* and that for ever. *Dalton* 287.

The Juſtice is to execute the *Supplicavit* as it directeth. *Dal.* 286.

If the ſums be left to diſcretion, it is ſafe to take good ſums. *Ib.*

After ſureties taken the Juſtice may make him a *Superſedeas. Dal.* 287, 288.

The Juſtice needs not return the *Supplicavit*, nor make Certificate until a *Certiorari* do come to him. *Lam.* 109. *Dal.* 289.

Supremacy.

To refuſe the Oath of Supremacy, the firſt offence is *Præmunire*; the ſecond Treaſon. 5 *El. cap.* 1.

Surety of the Peace

Is the acknowledgment of a Recognizance to the King (taken by a competent Judge of Record) for the keeping of the Peace. *Dal.* 263. *Lam.* 75.

One was compelled to find ſurety both for the good behaviour to the King; and for the Peace, to a woman whom he had beaten in *Weſtminſter-Hall.* 30 *Aſſ. p.* 14. *Dal* 290.

Every Juſtice of Peace may take, and command the Peace, either as a Judge, or Miniſter. *Dal.* 263.

Juſtice of Peace may command ſurety of the Peace, either of their own diſcretion, or at the prayer of another.

In what Caſes a Juſtice of Peace may command Surety of the Peace by his own diſcretion. Dal. 263.

1. Of one that maketh an affray upon the Juſtice himſelf, or an aſſault.

2. Of ſuch as in his preſence make an affray upon another, or offer to ſtrike another.

3. Of ſuch as in hearing ſhall threaten to kill, beat, or hurt another, or to burn his houſe.

4. Of ſuch as in his preſence contend only in hot words.

5. Of ſuch as in his preſence go or ride armed offenſively, or with unuſual number of ſervants or attendants; and ſervants and labourers that bear any weapons contrary to the ſtatute of 12 *Rich.* 2. *cap.* 6.

6. Of any perſon by him ſuſpected, to be inclined to break the Peace. *Dal.* 264.

7. If the Conſtable bring one before him that ſhall threaten to kill, maim, or beat another. *Ib.*

8. If the Conſtable bring one who in his preſence attempted to break the peace by drawn weapon, ſtriking or aſſaulting another.

9. Whom the Conſtable findeth fighting or quarrelling in a Houſe, he may break open the door, and bring them before a Juſtice of Peace to be bound. *Ib.*

10. He may make his warrant for ſuch as have made an affray, and bind them to the Peace. *Ib.*

11. If one have received a wound, he may bind the one and the other till the wound be cured, and the malice over. *Ib.*

12. Such as go or ride armed offenſively to Fairs or Markets, or wear or carry dags or piſtols charged.

13. Common Barretors. *Ib.*

14. Rioters. *Ib.*

15. Of

15. Of him that ſtandeth bound to keep the peace, and hath forfeited his recognizance by breach of the peace; but not till he be convicted, and the forfeiture levied. *Ib.* Yet *Cro.* 141. ſaith, that he may be bound anew if he be only convict for breaking the peace.

16. Of him that ſtandeth bound, if his ſurety be inſufficient. *Ib.*

Juſtice of Peace is to ſend to priſon him that refuſeth to give ſureties, until he find ſureties. *Dal.*272. *Cro.* 138.b. *nu.*8. And the party muſt offer ſureties. *Dal.* 273.

Juſtice of Peace may cauſe one to be arreſted to find ſurety of the peace againſt another, and grant a warrant for it, for he might have bound him of his own authority. *Dal* 271.

Juſtice of Peace may perſwade a man to require ſurety of the peace againſt another, and grant a warrant for it; for he might have bound him of his own authority. *Lam.*78. *Dal.*165.

At the requeſt of another he may command ſurety of the peace, but muſt firſt take an oath of the party that demandeth the peace, that he ſtandeth in fear of his life, or of ſome bodily hurt, or to have his houſe burnt. *Lam.*83. *Dal.*265.

Sureties in a recognizance ought to be two, and regiſtred in ſubſidy; for tho ſome may be ſufficient which were not aſſeſſed, yet it ſtandeth not well together, that he ſhould be bound to the King in ten, or twenty pounds, that in ſubſidy was not found worth any thing. *Dal.* 276.

Juſtices of Peace in Seſſions may examine ſureties upon Oath of their ſufficiency. *Dal.* 275.

The King himſelf cannot by a pardon diſcharge the recognizance before breach. 12 *Co.* 30.

Cauſes

Cauſes to require Surety of the Peace.

1. He that is threatned to be hurt in body, as to be beaten, wounded, maimed, or killed. *Dal.* 265.

2. He that feareth another will beat, wound, maim, or kill him. *Ib.*

3. He that feareth another will burn his houſe. *Ibid.*

4. He that feareth that *A* will procure another to hurt him in his body, or burn his houſe. *Ib.*

5. If a man lie in wait to beat, kill, or hurt another. *Ib.*

Quære, if he threaten to burn his goods. *Ib.*

In what Caſes a man ſhall not have the Peace granted.

To threaten one to impriſon him. *Dal.* 164. *Lam.* 82. *Cro.* 135. 2. *Quære tamen. Br. Peace* 22. *Dalt.* 265.

Where one is in fear that a man will hurt his ſervant, cattel, or other goods. *Dal.* 266. *Cro.* 138. 2. *Lam.* 83. But he may have a Writ out of the Chancery. *Dalt.* ſeemeth to be of the other opinion 266.

3. Becauſe he is at variance with his Neighbour. *Dal.* 266. *Lam.* 83.

4. Where there is no fear of preſent or future danger. *Dal.* 265. *Lam.* 84.

5. For a Battery paſt; yet a Juſtice, if he ſee cauſe, may bind over the Affrayers. *Dal.* 266. *Pax Regis* 14.

Juſtice of Peace may deny to grant ſurety of the peace, if it be upon meer vexation; yet if the party will take his Oath, it is not ſafe to deny it. *Dal.* 266. Yet afterwards perceiving it to be of malice, and for vexation, he may bind the party ſo requiring it to his good behaviour. *Ib.*

Againſt

Againſt whom the Surety of the Peace may be granted.

Againſt a Knight, or any perſon under the degree of a Baron. *Dal.* 268.

Againſt Sheriff, Coroner, Eſcheator, or other Officer of Juſtice. But it is not good to bind them *verſus cunctum populum*. *Dal.* 268. *Lam.* 80, 81.

Againſt any Eccleſiaſtical perſon not doing Divine Service in the Church or Churchyard, or other places dedicated to God. *Dal.* 260. 50 *Ed.* 3. *c.* 5. 1 *R.* 2. *cap.* 15.

One Juſtice of Peace may grant the ſurety of the peace againſt his Fellow Juſtice, tho ſitting in Seſſions. *Cro.* 134. b. *Dal.* 268. *Lam.* 80.

One Juſtice of Peace may demand the peace againſt another man. *Lam.* 81. *Dal.* 268.

Sir *Nic. St.* committed by the Juſtices in Seſſions for not finding ſureties; ſo compelled by *B. R.* upon his complaint to them. *Dal.* 268.

The Wife may demand the peace againſt her Huſband, if he threaten to kill her, or outragiouſly beat her, or ſhe have notorious cauſe to fear it; and the Husband may crave the peace againſt his wife. *Dalt.* 268. *Lamb.* 78. *Crom.* 133. b. *Con.* 9 *Car. B. R.*

The peace may be granted againſt a Feme covert, or an Infant under the age of fourteen years, if he have diſcretion to crave the peace, but they muſt be bound by ſureties, and an infant under that age may demand it. *Dal.* 269. *Lam.* 79.

A Lunatick may crave the peace, and have it granted him. *Ib.*

It may be granted againſt one attainted either of Treaſon or Felony, or convict of Hereſie. *Dal.* 269. And they may demand it. *Lam.* 79.

It

It may be had againſt an excommunicate perſon. *Dal.* 270. And an abjured perſon. *Ib.*

It may be had againſt one attainted in *Præmunire*, and againſt an alien either made Deniſon, or living in *England*. *Ibid.* So for them. *Dal.* 270.

It may be had againſt one dumb and blind; ſo againſt an impotent perſon. *Dal.* 269. *Lam.* 79.

Againſt whom the Peace cannot be granted.

1. It cannot be granted againſt any Nobleman, or Noblewoman. *Dal.* 267.

2. Againſt one *non ſanæ memoriæ*, unleſs he have *lucida intervalla*. *Dal.* 269. *Lam.* 79.

3. Againſt one born dumb and deaf; but if he become dumb and deaf, or made blind and deaf accidentally, he may have underſtanding, and the peace may be granted to him or againſt him. *Dal.* 269.

How the Surety of the Peace is to be commanded, and executed.

A Juſtice of Peace may command the Peace either by Word: or Writing.

By Word.

The party being preſent in the preſence of the Juſtice of Peace, threatneth another; or maketh an aſſault or affray upon another; or doth any other act tending to the breach of the Peace. *Dal.* 270. *Cro.* 138. b. *nu.* 8. *Lam.* 84, 85.

One

One demandeth the ſurety of the Peace, being preſent, and taketh his oath he is affrayed, &c. the Juſtice may command the other to find ſurety. *Dal.* 271. *Cro.*138. b. *Lam. ib.*

The Juſtice in ſuch caſes may command the Conſtable or other known Officer, or his own ſervant being preſent to arreſt ſuch party to find ſurety of the Peace, and may commit to the Goal ſuch party refuſing to find ſurety. *Dal. Cro. Lam. ib.*

By Writing.

The Juſtice by precept, or warrant in writing, under his ſeal directed to ſome known Officer, or other indifferent perſon, containing the cauſe, and at whoſe ſuit, to the end the parties may provide the ſureties, and take them with them. *Lam.*87. *Dal.*271.

The Juſtice may make his warrant to bring the party before him, but the uſual manner is to bring the party before the ſame Juſtice, or ſome of the Juſtices of the County. *Dal.*271.

Who may ſerve the Warrant. Vide *Warrant.*

The Conſtable is firſt to acquaint the party with the matter in the Warrant; and if he refuſe to go before the Juſtice to find ſureties, he may arreſt him, and carry him to the Goal, without carrying him to the Juſtice. *Lam.* 90. *Dal.*271. *Br. Faux impriſ.*18.

If the party yield to find ſurety, the Officer is not bound to go up and down with him, but may keep him until he can procure ſureties to come to him; if afterward he make reſiſtance, or offer to go away, he may by his warrant carry him to the Goal, and ſet him in

the

the ſtocks till he can get aid to carry him to the Goal. *Dal.*272. *Lam.* 92.

The arreſt is not juſtifiable, except the Officer do carry him to the Goal that refuſeth to find ſureties. *Cro.* 171. b. *Dal.*272.

The party may go before any other Juſtice (if the Warrant proceed *ex officio*) to offer the ſureties, but cannot force the Officers to travel out of the Diviſion where they dwell. Nay, it is at the election of the Officer, to carry the party to any other Juſtice, rather than to give the election to the Delinquent. *Dal.* 272. *Lam.* 94.

The party coming before the Juſtice, is to offer his ſureties, or elſe the Juſtice is to commit him; for the Juſtice needs not to demand them. *Dal.*272.

If the party refuſe before the Juſtice of Peace to find ſureties, the Officer by the firſt Warrant may commit him. *Dal.*272. *Lam.*92.

The Officer is finable, if he arreſt the party, and do not carry him before a Juſtice of Peace, if he be willing to find ſureties; ſecondly, if upon refuſal they arreſt him, and do not carry him to the Goal. *Dal.* 272.

The party being impriſoned, the Juſtice of Peace may make him his *Liberate*; firſt, if the complainant die; ſecondly, if he do enter ſurety of the Peace. *Ibid.*

If the impriſoned have a ſuit depending in the Common Pleas, by ſome opinions the impriſoned may be diſcharged by a Writ of Privilege. *Quære tamen. Dal.* 272. *Lam.*94. *Cro.*138. 2. *nu.*4.

A ſworn and known Officer needeth not to ſhew his Warrant, but the ſervant of the Juſtice muſt ſhew it if it be required. *Lam.* 89. *Dal.*464.

If Husband and Wife be bound to appear, and in the mean time to keep the peace, and the Husband only appeareth, the Recognizance is not forfeited. *Dal.* 279. *Quære Cro.*144. b.

Suſpicion

Suſpicion and Suſpects of Felony.

A ſuſpect of Felony ought not to be arreſted by a Warrant from a Juſtice of Peace, unleſs he be indicted before; for if the Bailiff who ſerveth the warrant, doth ſuſpect him, he may do it of himſelf without a warrant; and without ſuſpicion the Juſtices warrant is no warrant. *Lam.* 188. *Cro.* 147. b 148. b. 197, 2. *nu.* 21. *Quare Dal.* 415. *Br. Faux Impriſ.* 8.

Suſpicion only without felony committed, is no cauſe to arreſt another. *Cro.* 154. 2. *nu.* 28. *Dal.* 415. *Brook ib.* 1, 4.

A Felony being committed, every man may arreſt ſuſpicious perſons that be of evil fame, *&c.* and if ſuch perſon make reſiſtance, the other may juſtifie to beat him. *Dal.* 415.

The Conſtable or other perſon that arreſteth one for Felony, or ſuſpicion, muſt himſelf ſuſpect. *Dal.* 416. *Cro.* 99. b. *nu.* 43.

In an arreſt for ſuſpicion of Felony, the party that cauſeth the arreſt muſt ſuſpect him, and alſo ſhew ſome cauſe of ſuſpicion; otherwiſe every man may arreſt another for felony done. *Cro.* 99. b *nu.* 44. *Dal.* 416. where he maketh a *Quare.*

Swans.

Taking away from his own, or another mans ground, Swans eggs of another mans, upon conviction and examination of witneſſes, is impriſonment for a year and a day, and loſs of ten pounds. *Lam.* 446. *Dal.* 142. 1 *Jac.* 27.

To ſteal Swans unmarked, if they be *domiti*, and kept in a mans Manour, Moat, or private River;

is

is Felony. *Dal.* 370. Swans marked, tho at large, *ibid.*

So young Cignets Belonging to owner of Cock and of Hen. *Dal.* 371. *Vide* 7 *Co.* 17.

Swearing.

He that ſweareth or curſeth, being convicted by hearing of any Juſtice of the Peace; or by oath of two witneſſes; or confeſſion of the party before a Juſtice of Peace; loſeth twelve pence to the poor, where the offence ſhall be committed, to be levied by diſtreſs, the offence being proved within twenty days; or for default of a diſtreſs, to be ſet in the ſtocks three hours. 21 *Jac. c.* 20. & 3 *Car. c.* 4. *Dal.* 236.

Juſtices of Peace may give Oath to the witneſs. *ibid.*

The warrant for diſtreſs is to be made to the Conſtable, Churchwardens, and Overſeers of that pariſh, where the offence is committed. 21 *Jac. c.* 20. *Dalt.* 236.

The offender being under twelve years of age, and not forthwith paying his twelve pence, by warrant of a Juſtice of Peace, or Head-Officer; is to be whipped by the Conſtable; or by the Parent or Maſter in his preſence. *ib.*

Taxation,

WHether for the Poor, Maim'd Soldiers, Amendments of Bridges, High-ways, or whatever elſe, hath theſe rules. *Dal.* 231.

The

The moſt reaſonable tax of land is by the yearly value, not the quantity.

He that keeps land in his hands in ſeveral pariſhes, ſhall be charged in every pariſh proportionably.

The Farmer taxed, not the Leſſor.

One is not to be taxed for his Farm rents, becauſe the tenant is chargeable for the ſame.

One may be taxed generally by his goods as well as lands; not by both.

One ſhall be charged for goods only in the Town where they are at the time of the taxation; which the Conſtable and major part of the pariſhioners upon warning in the Church may make by Law. 5 *Co.* 67. *Br. Quæ.* 4, 6. *Dal.* 232.

So by Churchwardens and greater part of the pariſhioners for Church charges. *Dal.* 232.

By the Officers and ſuch as will, where the greater part will not meet. *Ib.*

Goods charged muſt be *Bona notabilia*. *Ib.*

The yearly value is intended natural, without regard to improving by good, or impairing by bad Husbandry. *Co. Dal.* 221.

Taxation made for the Common weal; as making or mending of Bridges, High ways, Cauſeys, Seabanks, &c. ſhall be upon all perſons tho they aſſent not. *Dal* 233. 5 *Coke* 63 *Br. Cuſtomes* 6.

A Town is amerced, and by aſſent of Neighbours every Inhabitant is aſſeſſed, and they appoint *I. S.* to collect it, and for non-payment ſuch a day, to diſtrein; ſuch a diſtreſs taken by *I. S.* for rates is good. *Dal.* 233. *Brook Cuſtomes* 6. 5 *Coke* 1.63. *Doctor & Student* 74. b.

Tale-bearers. Vide *News.*

Tanners. Vide *Leather.*

Tavern-keeper.

Aſſignment of ſuch as ſhall keep a Tavern to utter wine, is to be made at the general Seſſions, unleſs it be otherwiſe by eſpecial grant. 7 *Ed.* 6. *cap.* 5. *Lam.* 614.

This muſt be by licenſe under ſeals; and five pounds forfeiture for every day. *Dal.* 242.

In Corporations there muſt be ſuch licence by the Magiſtrates. *Ib. Vide* Wine.

Teſtimonial.

Teſtimonial under the hand of one Juſtice of Peace ſealed, is ſufficient to paſs in hay-time and harveſt-time from one County to another. *Lam.* 190.

In all Teſtimonials and Paſports, ſome aſſured marks of the party, by which he may infallibly be diſtinguiſhed and known from others, are fit to be ſpecified. *Lam.* 206.

Teſtimonial for a Serving-man turned from his Maſters ſervice; or whoſe Maſter is dead; ought to be made by two Juſtices of Peace. 27 *El. c.* 11. *Lam.* 331. *Dal.* 211. maketh a *Quære.*

None retained in husbandry is to depart without Teſtimonial at the end of his term. 5 *El. c.* 4. *Vide* Rogues, Servants.

Vide the Forms, Teſtimonials of Rogues, *&c.* Dal. 509, 510.

Theft.

Is a fraudulent and felonious taking of another mans perſonal goods in the abſence of the owner, and without his knowledge. *Lam.* 272. *Dal.* 365.

Theft is either Grand Larceny, or Pety Larceny.

Grand

Grand Larceny is, when goods ſtollen are above twelve pence; and it is felony of death, except the party be ſaved by his book. *Dal.* 365.

Yet if the goods be of more value, and the Jury find it did not exceed twelve pence, it is not Grand Larceny. *Ib.*

Pety Larceny is, if the goods do not exceed twelve pence, and is not Felony of Death, but impriſonment for ſome time, or whipping, or ſome other puniſhment by the diſcretion of the Juſtices before whom the party is arraigned. *Dal.* 366.

For Pety Larceny the Juſtice of Peace before whom the offender ſhall be brought, is not to puniſh him, but either to ſend him to the Houſe of Correction, or to bail him. *Ib.*

Pety Larceny is forfeiture of Goods and Chattels. *Ibid.*

Six pence, four pence, and three pence, being taken by one at ſeveral times from one and the ſame perſon, may be put together in one Inditement. *Dal.* 366. *Lam.* 273. *Stam.* 24.

If two or more ſteal above twelve pence from one; it is felony of death in every one. *Dalton* 366. *Lamb.* 273.

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To make an Act Larceny, there muſt be firſt a taking; ſecondly a carrying away. *Dalt.* 277. *Lamb.* 367.

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A Taverner ſetteth plate before his Gueſts to drink in, and his gueſts carry it away; it is felony. *Dal.* 367. *Lam.* 278. *Cro.* 35. b. *nu.* 4.

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A Carrier taketh our parcels of the Goods to him delivered; it is felony. *Dalt.*367. *Cro.* 36.2. *nu.* 11.

A Carrier conveyeth them to another place, and there breaketh them up, and conveyeth part or all to his own uſe; it is felony. *Dal.*367. *Lam.*278.

Where, after delivery, the embezelling is no Felony.

A Carrier embezelling the whole. *Lam.* 278. *Cro.* 36. 2.

A ſtranger borroweth a Horſe, and rideth away.

A Clothier delivereth his Wool to his Work-folk.

One delivereth his Goods to another to keep.

One delivereth money to *A* to pay *B.*

Felony in ſervants by force of the Statute 5 El. cap. 10.

Servant of the age of eighteen years (other than an Apprentice) to whom any money, goods, or chattels, *&c.* by his maſter or miſtreſs ſhall be delivered to keep, of the value of forty ſhillings or above; if he go away with, or convert the ſame to his own uſe, with intent to ſteal the ſame, or to defraud his maſter or miſtreſs; it is felony, if it be proſecuted within a year. *Lam.*279. *Dal.*368.

Wherein are divers Caſes.

A man receiveth of his Maſter twenty pounds in Gold to keep, which he changeth into ſilver, and run-neth

neth away with it, they are both of one nature, therefore felony. *Dalton* 368. *Lambert* 280. *Crump.* 35. b. *nu.* 6.

One ſervant delivereth to his fellow ſervant to the value of forty ſhillings of his maſters goods, and he goeth away with it, or converteth it to his own uſe; it is felony. *Dal ib. Cro* 50. a. *Lam.* 280.

A ſervant maketh a garment of his maſters cloth, and goeth away therewith; it is felony. *Dal.* 369. *Cro.* 50. a.

Quære of barley converted into malt, or money melted into a piece of mettal. *Dal.* 369.

An obligation is delivered unto a ſervant, and he goeth away with the money received upon the ſame obligation; it is no Felony within the ſtatute of 5 *El. c.* 10. for the maſter delivered not the money. *Dal.* 369. *Cro.* 35 b. *nu* 5. 50. a.

The ſervant carrieth his maſters wares to market, ſelleth them, and goeth away with the money, or converteth it to his own uſe; it is not felony within the ſtatute of 5 *El. c.* 10. *Dal.* 368. *Cro.* 50. a. *Lam.* 280.

A Receiver receiveth rents, and goeth away with them; it is no felony, for the ſtatute is, where the maſter delivereth to keep. *Dal.* 369. *Cro.* 50. a.

I deliver to my ſervant an horſe to ride to market, or money to buy things, or pay another, and he goeth away with it; it is no Felony at the Common Law, for it was of his maſters delivery. *Dal.* 368. *Cro.* 35. b. *nu.* 7. *Quære*, if it be not Felony by 5 *El. c.* 10.

My Shepherd ſells my Sheep falſly, it is felony. *Cro.* 35. b. *nu.* 9. but *Stamf* 25. a. *contra.*

A ſervant keeps the key of his maſters Chamber-door, and taketh away above the value of twelve pence; it is felony at the Common Law, for they were not delivered him. *Dal.* 369. *Lam.* 379.

A Gueſt taketh the ſheets, or other goods of the hoſt, feloniouſly into ſome other room of the houſe; it is Felony. *Dal.* 369. *Cro.* 35. a. *nu.* 2. *Lamb.* 281. *Br. Corun.* 107.

To ſteal Sheets out of a Grave, if of value, felony; elſe Petty Larceny. 12 *Co.*113.

A man felonioufly taketh an horſe, and is apprehended before he gets out of the cloſe where he wont. *Lam.*281. *Dal.*369. *Cro.* 36. a *nu.* 12.

Not inquirable before Juſtices of Peace.

A ſervant taketh away or ſpoileth his deceaſed maſters goods; in default of appearance in the Kings Bench after proclamation, it is felony. *Dal.*369. *Cro.* 56. a. 6. 33. *H.*6. *c.*1.

Felony may be committed

Of movable Goods, as Money, Apparel, Houſhold-ſtuff, &c ſo of Corn, Hay, Trees, Fruit, &c. being ſevered from the ground. *Dal.* 370. *Lam.* 273.

Of domeſtick things, as Horſes, Mares, Colts, Oxen, Kine, Sheep, Lambs, Swine, Pigs, Hens, Geeſe, Ducks, Turkeys, or any other domeſtick Beaſts, or Birds of tame nature; and tho they run or flye away out of the owners ſight, the detainer is puniſhable by action. *Dal* 370.

A Hawk flying at a Fowl, and a Deer chaſed out of Park, are ſtill in the poſſeſſion of the owner, ſo long as his ſervant is in freſh ſuit of them. *Dal.*372.

Of wild nature, young pigeons out of another mans Dove houſe, young Hawks, or Herons breeding in Parks or ſeveral grounds. Fiſhes kept in a Trunk or Pond. *Cro.* 36. b. *nu.* 22. *Lam.*274. *Dal.* 370. *Stam.*25. ſaith Gothawks.

Quare of old Doves in a Dove-houſe. *Lam.*264.

So Swans marked, and at large, and tame Deer marked and domeſtick, if the taker know it to be tame. *Dalton* 370. *Lambert* 275. *Crompton* 36. b. *nu.* 23. *ſide* Swans.

By

By ſtatute it is felony to hunt Deer or Conies after ſome ſort in Park, Forreſt, or Warren, or to take a tame Beaſt: or other thing in a Park by manner of Robbery. *Vide* 3 *E.* 3. *c.* 20. 1 *H.* 7. *c.* 7. *Lam.* 275. *Dal.* 371.

So to take away, or conceal an Hawk. *Ib.*

To ſteal the fleſh of tame and wild Fowl dead, is felony. *Stam.* 25. *Lam.* 275 *Dal.* 372.

To pull wool off the Sheeps backs, or to kill them for their skins. *Dal.* 372. *Cro.* 36. a. *nu.* 17. *Lamb. Ibid.*

A man may commit Felony in taking his own Goods. As I lend or deliver goods to another to keep, and after take them away felonioufly or fraudulently, to recover the ſame by action of Detinue. *Dal.* 373. *Cro.* 37. b. *nu.* 42. b. *Stam.* 26. a. *Lamb.* 277. *Br. Coro.* 142. *Quære.*

I lend or deliver my Plate or Goods to another, who melteth my Plate, or changeth the faſhion of my goods, to take them felonioufly is felony in me. *Dal.* 373. *Cro.* 37. a. *nu.* 34. *Lam.* 277.

If a man purſue or take a felon that hath ſtollen his goods, taketh them, and ſuffereth the thief to eſcape, he is no acceſſary; for he may *agere civiliter aut criminaliter in initio. Lam.* 290. *Terms of Law, Titu. Theftboot. Cro.* 37. a. 45. b. 42. b. *P. R.* 131. *Dal.* 399, 373.

If the party robbed take money, *&c.* of the thief, to the end that he ſhall not give evidence againſt him, whereby the Thief eſcapeth, he is acceſſary to Felony of his own goods. *Lamb.* 290. *Dalt.* 400. *Crom.* 41. *nu.* 5.

Quare, If a man having made complaint to a Juſtice of Peace, take his ſtollen goods again, and doth not proſecute the matter, whether it make him not acceſſary, for that he did once *agere criminaliter. Dalt.* 400.

Felony is not committed

Of things which are real chattels. *Lam.* 275,276. *Dal.*270.

To cut down any Tree or Corn, or pull any apples, or carry them away. *Dal.* 372. *Lam.* 276. Being cut and gathered for one, then for another to carry them away; it is felony; or if a ſtranger cut at one time, and carry away at another time; it is felony. *Dal.*372. *Cro.*36.b.*nu.*26. *Lam.* 276.

Lead upon an Houſe, or Church, is part of the freehold. *Dal.* 373. *Cro.* 37. a. *nu.* 33.

Evidence of a mans land, indenture of Leaſe, or other writings in box, or out of box, cannot be valued. *Lam.*275. *Dal.*373.

To take away an infant in Ward, is no felony. *Dal.* 378. *Lam.*276.

Treaſure trove, or hidden, wreck of the Sea, goods waived or ſtrayed; for the owner is unknown, *Lamb.*276. *Br.Coro.*36 *Dalt.*378

But felony may be committed by taking *bona ignoti*, or *mortui & ignoti*; or *parochianorum*; or of a Church, or Chappel; or of a Corporation in time of vacation. *Lam.* 66,277. *Dal.*375.

One ſtealeth ſtollen goods; the owner may indite the firſt or ſecond Thief.

To ſteal a winding Sheet out of a Grave; Felony. 12 *Co.* 113 *Vide Dal. e contra* 373.

One has two Chains, one Gold, the other Copper; he ſells the Gold Chain, and delivers it; and preſently conveys away the Golden, and the Copper in its place; Felony. *Dal.*373.

So of two horſes *mutatis mutandis. Ib.*

The ſervant finding his maſters purſe hid in the haymow, takes part of the money; felony. *Dal.* 369.

Taking money, or goods from the perſon ſecretly, without

without the owners knowledge, or by ſleight, not putting in fear; yet felony. *Dal.* 365.

One privily cuts a Girdle, at which hangs a purſe, with which the girdle falls to the ground; he being ſeen takes it not up, no felony, for he never had actual poſſeſſion, otherwiſe if he had held the purſe in his hand, as he cut the girdle. *Ib.*

Perſons chargeable in Larceny.

A woman covert by her ſelf, her husband not knowing thereof, committeth Larceny as principal, if ſhe ſteal another mans goods; or as acceſſary, if ſhe receiveth the thief that ſtole them; or receiveth the ſtollen goods into her houſe knowing them to be ſo; or locketh them up; and the husband knowing thereof, the Law will impute the fault to him, not to her; but if the husband ſo ſoon as he knoweth it, forſake his houſe and her company, and remain elſewhere, he ſhall not be charged for her offence. *Sta.* 26. *P. R.* 130. *Lam.* 282. *Dal.* 375.

The husband delivereth goods to a ſtranger, the wife ſtealeth them from the ſtranger; it is felony in the wife. *Dal.* 375.

A ſtranger goeth away with another mans wife, and againſt her will carrieth away her husbands goods; it is felony in the ſtranger. *Cro.* 35. a. *nu.* 2. *P. R.* 130. *Dal.* 375.

A Servant ſtealeth by the compulſion of his Maſter, it is felony in both. *Cro.* 37. a. *nu.* 37. *Dal.* 375.

An infant of fourteen years old arraigned, ſtigmatized for Theft. *Dal.* 376.

Not Felons.

A wife ſtealeth by the compulſion of her husband,

it

is no felony in her. *Cro.* 36. b. *nu.* 27. & 37. 2. *nu.* 36. *Lam.* 282. *Dal.* 374. But to do murder by her husbands compulsion, is felony in both. *Dal. ib. Cro.* 37. 2. *nu.* 38.

A wife stealeth by commandment of her husband without constraint. *Quære Dal.* 374. *Stam.* 26. *P. R.* 130. *Lam.* 281.

The husband and wife together steal goods, it is felony in the husband only. *Dal.* 374. *Stamf.* 26. *Lam.* 281.

A wife stealeth goods delivered to her husband, it is no felony. *Dal.* 375. *Cro.* 37. 2. *nu.* 35.

The wife stealeth her husbands goods, and delivereth them to strangers, it is felony in neither. *Dal.* 375. *Stam.* 27. *Lam.* 282. *Cro.* 35. 2. *nu.* 2.

The wife receiveth the husband being a felon, and relieveth him; she is no accessary. *Cro.* 42. b. *nu.* 21. *Dal.* 375. *Stam.* 26.

An Ideot, Lunatick, Dumb and Deaf Person, and an Infant, are chargeable in Larceny, after the same sort as they are chargeable in homicide. *Lam.* 281; *Dal.* 375. *Vide* Homicide.

Threatning.

He that shall be threatned to be hurt in his body, to be beatea, wounded, maimed, killed, may crave and have the peace against the other. *Dal.* 264, 265. *Lam.* 82.

So it is a breach of the Peace, if done to the face of a man. *Dal.* 281.

So threatning to beat, *&c.* is a Forcible Entry.

If a man be threatned to have his goods burned, *Quære* if he may have the peace. *Dal.* 265. *Lam.* 82. So, if Forcible Entry. *Dal.* 301.

To threaten to imprison a man, is no cause of the craving of the peace; for the wronged may have his action

action of falſe impriſonment, or his Writ. *De homine replegiando. Dal.* 265. *Lam.* 82. 83. *Quære.*

To enter peaceably into an Houſe, &c. and put out *B*, and preſently threaten, and ſay to *B*, that if he do come thither again to enter, he will kill him; this ſeemeth a Forcible Entry: and if *B* come again to make his entry, then if the other ſhall threaten to kill him, if he entreth, it is a forcible detainer. *Dal.* 301. *Cro.* 70. b *nu.* 39.

Tile-making.

One Juſtice of Peace may inquire, hear, and determine by his diſcretion, as well by examination of the offender, as otherwiſe, the offence committed in Tile-making, and aſſeſs the fine therein limited, and may appoint men skilful to be ſearchers. *Quære tamen*, whether one may do it alone. *Lam.* 193, 194. *Dal.* 239. 17 *E.* 4. *c.* 4.

Earth for Tile is to be digged before the firſt of *November*, and is to be turned and ſtirred before the firſt of *February* following, and to be tried from ſtones, veins and chalk, and not to be wrought before *March* following, or loſe double the value to the buyer. 17 *E.* 4. *c.* 4. *Lam.* 468.

Plain Tile put to ſale, is to be ten inches and a half long, ſix inches and a quarter broad, three quarters of an inch thick; or loſe five ſhillings an hundred. *Ibid.*

Roof-tile muſt be thirteen inches long, half inch, and half quarter of an inch thick, conveniently deep, or loſe ſix ſhillings eight pence an hundred. *Ibid.*

Gutter-tile muſt be ten inches and a half long, of convenient breadth, depth, and thickneſs; or loſe two ſhillings an hundred. *Ibid.*

Searchers of Tile, for every default in ſearching loſe ten ſhillings. *Ibid.*

Tipling.

The Inn-keeper, Victualler, or Alehouſe-keeper, that ſuffereth any to continue Tipling in his houſe, ſhall forfeit ten ſhillings, to be levied by diſtreſs, by warrant from one Juſtice of Peace, and to be ſold after ſix days; for want of diſtreſs to be ſent to the goal till payment be made. 1 *Jac. cap.* 9. 7 *Jac. cap.* 10. 1 *Car. c.*4. *Lam.*192.

The Oath of Conſtables, Churchwardens, Headboroughs, Tythingmen, and Ale-conners, are to be inlarged, and extend to preſent all offences againſt the ſtatutes of 1 *Jac.c* 9. & 4 *Jac. c.* 5. 21 *Jac. c.*7.

Any continuing Tipling in an Inn, Victualling houſe, or Ale-houſe, ſhall forfeit three ſhillings four pence to the poor, or not being able to pay the ſame, ſhall ſit in the ſtocks four hours. 1 *Jac. c.* 9. 7 *Jac. c.* 10. 21 *Jac. c.*7. Alehouſe-keepers diſabled three years. 4 *Jac. cap.* 5.

The Juſtice has power to adminiſter an oath to one witneſs, to prove the offence. 1 *Car.* 4, 1. 21 *Jac.* 9.

The Officers neglecting to levy, or certifie in twenty days, forfeit forty ſhillings, or ſhall be committed till payment. 1 *Jac.*9. *Dal.*29.

Tythes.

Two Juſtices of Peace, one being of the Quorum, upon complaint by any competent Judge of Tythes, for any miſdemeanor of the defendant in a ſuit of Tythes; may cauſe him to be attached, and committed to ward, till he find ſurety by recognizance to obey the ſentence and proceſs of the Judge. 27 *H.* 8. *c.* 7. 27 *El. c.* 11. *Lam.*357. *Dal.*238.

Upon complaint in writing by an Eccleſiaſtic Judge, that

that hath given definitive ſentence in caſe of Tythes, againſt one wilfully refuſing to pay Tythes, or ſum of money adjudged; two ſuch Juſtices of Peace may cauſe the party to be attached, and impriſoned, till he find ſurety to perform the ſentence. 32 *H.* 8. *c.* 7. *Dal.* 239. *Lam.* 357. *Cro.* 157. 2. *nu.* 22.

The Lord Maior of *London* ſhall in two months determine a controverſie about Tythes there, by 37 *H.* 8. Or in his default the Lord Chancellor.

Upon Sentence Eccleſiaſtic diſobeyed, Excommunication and Impriſonment by *Excom. cap.* lies, if no abſoiling be in forty days. 32 *H.* 7. 8. *Dal.* 239.

Tobacco.

Juſtices of the Peace, Mayors, Bailiffs, Conſtables, and every of them upon complaint to any of them of any Tobacco ſown or planted within their Precincts in *England*, *Wales*, or, *&c.* ſhall within ten days after ſuch complaint cauſe the ſame to be deſtroyed; and any perſon reſiſting or oppoſing the execution of the ſaid Act, to forfeit five pounds for every offence, to be recovered by diſtreſs and ſale of the offenders goods, and for want of diſtreſs, impriſonment of the offender two months without bail. *Dal.* 236. 12 *Car.* 2. *ca.* 33.

The forfeiture is forty ſhillings every pole, or rod, to the King and Informer. 12 *Car.* 2. 33. And ten pounds above the forty ſhillings, a third to the King, a third to the poor of the pariſh, and a third to the Informer by 15 *Car.* 2 7. *Dal.* 236.

And beſides the penalties for reſiſting, againſt the ſtatute aforeſaid, the offender ſhall be committed to the Goal without bail, till he enter recognizance with two ſureties of ten pounds not to reſiſt again; and ſhall forfeit five pounds levied by diſtreſs, *&c.* or impriſonment three months, upon conviction before two Juſtices. 22, 23 *Car.* 2. *Dal.* 237.

Search

Search by warrant to the High Conſtables for ſuch Tobacco; and preſentment of the perſons at the Seſſions, which ſhall be a conviction, unleſs the party traverſe the preſentment, *&c.* 22, 23 *Car.* 2. *Dal.* 237.

Publick Officers by warrant of the Juſtices with aſſiſtance may in fourteen days after deſtroy the Tobacco; or forfeit five ſhillings the Rod, if they ſuffer it to ſtand: and perſons refuſing to aſſiſt, ſhall forfeit five ſhillings by diſtreſs, *&c.* or impriſonment a week. *Ibid.*

This Statute to continue nine years, and thence to the end of the next Seſſions of Parliament. *Ib.*

Toll.

The owner of a Market, having the Toll thereof, muſt have a braſs meaſure chained up in the Market place, upon five pounds pain. 22 *Car.* 2. *Dal.* 148.

Miller taking Toll by heaped meaſure, is to be fined. 31 *Ed.* 1. *de piſtoribus*, *Lam.* 461.

Miller taking exceſſive Toll, *viz.* more than the twentieth, or twenty fourth part of the Corn according to the force of the water, or by a Toll-diſh not agreeing with the Kings meaſure, or otherwiſe than by ſtrike, ſhall be grievouſly amerced. 51 *H.* 3. *c.* 3. *Cro.* 92. 2. *Dal.* 253.

A Miller ſhall have toll of a buſhel of hard Corn three wine pints; and of a buſhel of Malt but one pint, if the Corn be brought to the Mill; for that a Mill will grind three buſhels of Malt as ſoon as one buſhel of hard Corn. *Cro.* 92. 2. *Quære*, for 51 *H.* 3. *c.* 3. doth not expreſs ſo much. *Dal.* 253.

Toll-gatherer for horſes taking above a penny for one contract, or entring the parties names, and that in the ſame place only where the Market or Fair is, and between ten of the Clock in the morning and Sun ſetting, loſeth ten ſhillings, and is to anſwer the party grieved. 2 & 3 *P.* & *M.* *c.* 4. *Lam.* 471, 472.

Toll-

Toll-taker not knowing the ſeller of an horſe, mare, &c. the ſeller may bring one credible witneſs that will teſtifie he knoweth the ſellers name, myſtery, and dwelling place, and there to enter them with the true price of the horſe, or loſeth five pounds. 31 *El. c.* 12. *Cro.* 91. 2. *Lam,* 472.

Any giving teſtimony to the Toll-taker, unleſs he do truly know the ſame, loſeth five pounds. *Ibid.*

A thief ſelleth a ſtollen horſe by a falſe name, and is ſo entred into the Toll-book, ſuch miſnaming maketh the ſale void. *Dal.* 74.

Toll-taker refuſing to give to the buyer or taker of ſuch an horſe, &c. a true note in writing of his entry, the party paying two pence for the ſame, loſeth five pounds. 31 *El.c.*12.

Toll of Market ſeems to be taxable towards relief of the Poor. *M.* 27 *Car.* 2. *Vide Dal.*148.

Trade.

In general, and particular, Trades are equally neceſſary to this Iſland, and therefore to reſtrain them, is againſt Law, that abhorreth idleneſs, but encourageth pains and induſtry; agreeable to the Chriſtian Law, *He that will not labour, ſhall not eat.*

Therefore a Bond condition'd, not to uſe a Trade, is void; tho, not to uſe it in ſuch a particular place, is good, the reſtraint not being abſolute, and general. *Vide* 11 *Co.* 86.

So none ſhall uſe a Trade, to which he has not been Apprentice ſeven years. 5 *El.* 4.

But Hemp-dreſſers, and Net-makers, and Tapeſtry-makers are excepted.

No retainer for leſs than a year is allowed in the Trades (or Arts) of Arrow-head-makers, Bakers, Brewers, Butchers, Bowyers, Cappers, Clothiers, Cloth-workers, Cooks, Curriers, Cutlers, Diers, Felt-

Feltmakers, Ferrors, Fletchers, Fullers, Glovers, Hat-makers, Hoſiers, Millers, Pewterers, Sadlers, Shearmen, Shoemakers, Smiths, Spurriers, Tailors, Tanners, Tuckers, Turners, Woollen-cloth-weavers. 5 *El.* 4.

No man prohibited by the Law, to uſe ſeveral Trades, being *pro bono publico*, and the only ſtat. (37 *Ed.* 3. 6.) which did, was at the next Parliament abrogated, and free Trade eſtabliſhed. 11 *Co.* 54.

Perſons under the command of the Duke of *Albemarle*, not having deſerted the ſervice, nor refuſed the Oaths of Supremacy and Allegeance, may ſet up their Trade to which they were Apprentices, or for which they are able, in the places where they were born. 5 *El.* 4.

And ſuch Soldier ſhall prove his ſervice by Certificate (under ſeal) of a Field Officer, and two Commiſſion Officers, or ſome General Officer, and proved by one witneſs, or (in default) confirmed by two witneſſes. *Ib.*

One never being an Apprentice may uſe privately any Trade, as Cook, Brewer, Baker, Tailor, *&c.* in a Family. 11 *Co.* 54, 8 *Co.* 129, 130.

And he may hire a ſervant skilful in his Trade, but not an Apprentice, by the ſtatute 5 *El.* 8 *Co.* 129.

So Trades not requiring skill, as a Pippin-monger, are not within the ſtatute. So of ploughing and digging.

A Butcher uſing his own, and a Tanners Trade, forfeits every day ſix ſhillings eight pence.

A Tanner uſing the Trade of a Butcher, Currier, Shoemaker, or other Artificer in Leather, forfeits the Hides and Skins tanned. *Ib.*

No Weaver not uſing Cloth-making, ſhall uſe that of a Tucker, Fuller, or Dier, upon forfeiture of twenty ſhillings a week. 2, 3 *P. M.* 11. *Dal* 241. *Vide* Weaver.

No Trader, or Tradeſman ſhall dreſs any black Coney-

Coney skins; nor tranſport any of the breed of *England*, unleſs they be well tawed, dreſſed and packed by Skinners, &c. upon forfeiture thereof, or the value. 3 *Jac.*9. *Dal.*226. *Vide* Skinner.

No Silkthrower ſhall trade, unleſs Apprentice ſeven years. 14 *Car.*2.15. *Dal.*226.

Tranſportation.

Every man may tranſport Corn, it being at the prices following, except it be forbidden by proclamation. 1 *Jac.c.*25. 21 *Jac.c.*28. 3 *Car.c.*4.

Wheat at twenty ſix ſhillings eight pence the quarter. Rie and Peaſe fifteen ſhillings. Barley and Oats fourteen ſhillings.

Every Subject born within the Realm, when the prices of Corn at the times, places, and havens, when and where the ſaid Corn ſhall be brought, ſhipped, or laden, exceed not the rates following, may carry and tranſport of his own, and buy to ſell again in markets, or out of markets; and to keep, or ſell, or carry, or tranſport any of the ſaid Corn from the places where they ſhall be of ſuch prices, unto any parts beyond the Seas in amity with his Majeſty in Engliſh Veſſels, or carry or ſell in other places within the Realm, except where ſuch Tranſportation ſhall be forbidden by the Kings Proclamation. 2 *Car. c.*4.

Wheat at thirty two ſhillings a quarter. Rie, Peaſe and Beans at twenty ſhillings. Barley at ſixteen ſhillings.

Every man may tranſport any Beer, when the price of a quarter of Malt exceedeth not ſixteen ſhillings. 5 *Car.*1. *c.*4.

Selling into *Scotland* any horſe (or forreign parts) without licenſe by the Great Seal, or Privy Signet, upon forfeiture of ſuch horſe, and forty pounds to the King and Informer, and impriſonment a year. 1 *Ed.*6. 5. 5 *El.*9.

Juſtices may inquire, and any man arreſt the Offender.

Not to extend to any carrying horſes for the Kings Service; nor to the Warden of the Cinque-Ports, for ſix horſes a year; nor to the Maſter of the Horſe, as to his Office.

No Hides or Leather ſhall be tranſported (except Sheep skins, or Calves-skins) under pain of five hundred pounds, and being diſabled to trade in Leather. *Vide plus* in Leather.

None may tranſport Sheep, *Vide* Sheep.

Where one convict or Attaint of Felony, has election to be tranſported to a Plantation, Judgment ſhall be entred, that he ſhall be tranſported, and there remain ſeven years, and the Sheriff ſhall convey him, and embark him for Tranſportation. 22, 23 *Car.* 2. *Dal.* 393.

The Judges have power to tranſport in theſe Offences.

In ſtealing off the Tenters in the night. 22 *Car.* 2.

In embezelling Ordinance, Cordage, &c. 31 *El. Dal.* 386.

The Judge may reprieve, and order the priſoner to be tranſported, and if he return in ſeven years, he ſhall be executed. 22 *Car.* 2. *Dal. ib.*

Juſtices of Peace in their Seſſions have power to tranſport convict Rogues, Vagabonds, and ſturdy Beggars adjudged incorrigible. 39 *El. Dal.* 214.

Tranſportation of any Engliſh Subject as priſoner into *Scotland*, &c. *Tangier*, &c. is illegal, for which the party ſhall have an Action of Falſe Impriſonment againſt ſuch perſons impriſoning, tranſporting, or aiding, &c. and recover treble coſts, beſides damages not leſs than five hundred pounds, and no delay by Rule, &c. nor no Injunction, Protection, or Privilege, nor but one Imparlance ſhall be allowed (except ſuch Rule made in open Court, thought in Juſtice neceſſary for ſpecial cauſe expreſſed) and the perſons making any warrant for ſuch Commitment or Tranſportation, or adviſing,

adviſing, aiding or aſſiſting (and convict) ſhall be diſabled to bear any Office, and ſhall incur a Premunire according to 16 *R.* 2. and be incapable of pardon. 31 *Car.* 2.

Perſons contracting with a Merchant, or owner of a Plantation, or other, to be tranſported, and receiving earneſt, tho afterwards renouncing the Contract, are not within this act. *Ib.*

Traverſe.

Traverſe is the denying of the chief matter in an Indictment. *Lam.* 540.

Traverſe upon a Forcible Entry, or detainer, found upon preſentment; *Quære* before whom the Traverſe is to be made, or tendred. *Lam.* 158.

Notwithſtanding offer of Traverſe upon inquiry of a force, the Juſtice of Peace muſt make the reſtitution by the ſtatute of 8 *H.* 6. or elſe deliver or certifie the preſentment in the Kings Bench. *Lam.* 158.

Traverſe lies not to a Record of a Juſt. of Forcible Entry in his view, becauſe he is Judge in that Caſe. 8 *Co.* 121.

Traverſe lyeth where one Juſtice of Peace alone will take upon him to record a Riot that he ſeeth, and the party ſhall not be concluded thereby. *Lam.* 182.

Traverſe of an Indictment of Felony or Treaſon is not uſual. *Lam.* 541.

Traverſe of an Indictment may be before the Juſtices of Peace. *Lamb.* 542. If the Court where the preſentment is found, cannot award proceſs thereof, it cannot receive a traverſe of the preſentment; as a Leet of Bloodſhed. *Lam.* 542.

That Court, that may award proceſs *ad reſpondendum* upon an Indictment, may take a traverſe of it. *Lam.* 543.

Preſentment of Bloodſhed found in the Sheriffs Turn,

and ſent to the Juſtices of Peace, cannot be traverſed before them. *Lam.*542.

One of the Inqueſt preſents himſelf; it is not traverſable. *Lam.*543.

Where proceſs *ad reſpondendum* goeth out upon an Indictment that is traverſable, the party may offer, and have his traverſe. *Lam* 542, 543.

Quare, whether a man be admitted to traverſe a preſentment, except it charge him in the Freehold. *Lam.*543.

Travelling beyond Sea.

Officer of Ports, or owner of a Veſſel, ſuffering any woman, or child under twenty one years of age (except Sailers Shi-pboys, Apprentices or Factors of Merchants in their Trades) to go (or carrying any of them) beyond Sea, without licenſe of the King, or ſix of the Privy Council under their hands; ſuch Officer of the Ports forfeiteth his Office, and all his goods, and the Maſter of the Veſſel, his Veſſel, and impriſonment without bail for twelve months, and loſeth alſo all his goods. 3 *Jac. c.* 4.

Any ſubject going beyond Sea to ſerve any forreign State, not taking the Oath of Allegeance before the Controller or Cuſtomer of the Port, or either of their Deputy, or Deputies, before his going, ſhall be a Felon: the Oath by them to be regiſtred, and certified into the Exchequer once every year, or loſe five pounds for every Oath not certified. *Ib.*

Any Gentleman, or of an higher degree, or Captain, or other Officer in the Army; before his going beyond Sea to ſerve any forreign Prince, or State, muſt be bound, by the Controller or the Cuſtomer of the Port, with two ſureties (allowed by the Officer) to the King in twenty pounds, with condition not to be reconciled

conciled to the Pope, nor to practice any thing againſt the King, but knowing any thing, to reveal it; the ſame bond to be by them regiſtred and certified into the Exchequer once every year, or loſe five pounds for every default. *Ib.*

Children not being Soldiers, Mariners, Merchants Apprentices, or Factors, going beyond Sea without licenſe of the King, or ſix of the Privy Council, (whereof the principal Secretary to be one) under their hands and ſeals, ſhall take no benefit by deſcent or otherwiſe of any lands, leaſes, goods or chattels, until he or they being eighteen years old or above, take the Oath of Allegeance before one Juſtice of Peace of the County where the Parents dwelt or dwell; and in the mean time the next of kin, being no Popiſh Recuſant, to enjoy them till he ſhall conform to take the ſaid Oath of Allegeance, & receive the Sacrament of the Lords Supper, and then to account to him for the mean profits, and in reaſonable time to make payment thereof. And the ſenders loſe one hundred pounds, one third part to the King, another to the Suer, another to the Poor. 3 *Jac. c.* 5.

Vide Tranſportation.

Traveller.

Inn-keeper or Alehouſe-keeper refuſing to lodge a Traveller; Juſtice of Peace, or Conſtable may compel him. *Quære* how, *viz.* to preſent the offence at the Aſſiſes, or Seſſions. *Dal.* 30. *Br. Action ſur le Caſe.* 76.

Sir *James Lee* delivered, that the Inn-keeper or Alehouſe-keeper, may for the ſame be indicted, fined, and impriſoned, or the party grieved might have his action. *Dal.* 30.

Treaſon

Is a grievous offence done or committed againſt the King in his perſon; the Queen his Wife; his Children, Realm, or Authority. *Dal.* 326. As

To compaſs the death of the King; Queen his Wife; or of their eldeſt Son and Heir; or to intend any of their deaths, tho it be not effected. *Dal.* 326. 25 *Ed.* 3. 2.

To deflower the Kings Wife; his eldeſt Daughter being unmarried; or his eldeſt Sons wife. *Dal.* 327. 25 *Ed.* 3. 2.

To levy war againſt the King in his Realm. *ib. Br. Treaſon* 24.

To conſpire to levy war againſt the King. *Ib.*

To conſpire with a Governor of another County to invade the Realm. *Dal.* 328.

To kill one that is ſent on the Kings Meſſage. *Ib.*

To encounter in fight, and kill ſuch as be aſſiſting to the King in his Wars, or come to help the King. *Ib.*

To aid the Kings enemies in his Realm. *Ib.*

To counterfeit the Kings Great Seal, Sign Manual, Privy Signet, or Privy Seal. *Ib.*

To take an old Seal, and put it to a new Patent; *Quære*, whether Treaſon, or Miſpriſion, *ib. Stat.* 3. *C. Br. Treaſ.* 3. And ſo of thoſe that without authority ſet the Kings Seal upon any writing, or fraudulently thruſt a writing amongſt others to ſeal, and ſo get it ſealed, *Dal.* 329.

One counterfeited the Crown in the Signet, leaving out divers words of the Kings ſtyle, and adding others, that there might be variance between them; adjudged counterfeiting by putting the falſe Seal to the Paper, and ſo getting the Great Seal to a Patent. 2 *Roll.* 50. *Robinſons* Caſe.

To counterfeit the Kings Coin, or any Coin current within the Realm. *Dal.* 299. To

To bring in any falſe money, knowing it to be falſe *Dal.* 329. 1 & 2 *P. & M. c.* 3.

To clip, waſh, and lighten, or falſifie any Coin currant within the Realm. *Ib.*

To coin money, not having authority. *Ib.*

Coining tokens, no treaſon, but is puniſhable. *Dal.* 329.

If he which hath the Kings warrant to coin, doth coin money in *England*, *Ireland*, or elſewhere, leſs in weight than the Ordinance, or coineth falſe mettal. *Dal.* 329. Br. *Treaſon.* 19.

All Counſellers, Procurers, Conſenters, or Aiders of any the forenamed Treaſons, are within the purview of 25 Ed. 3. *for in Treaſon all offenders are principals.* Dal. 330.

Counterfeiting Gold or Silver, not the proper Coin of this Realm; is miſpriſion of treaſon: 14 *El. c.* 3.

To kill the Kings Chancellor, Treaſurer, Juſtice of either Bench, in Eyre, of Aſſiſe, or *Oyer* and *Terminer*, being in his place, and doing his Office, is High Treaſon. *Dal.* 330.

To extol the authority of the Biſhop of *Rome* within any of the Kings Dominions, and the Procurers, Counſellers, Aiders and Maintainers thereof; the firſt offence is *Præmunire*, the ſecond treaſon. 1 *El. c.* 1. 5 *El. c.* 1. *Lam.* 411. *Dal.* 331.

So to bring over any Books that ſhall maintain, ſet forth, or defend ſuch authority, and the readers and hearers that ſhall juſtifie them. *Dal* 331.

So deliverers of ſuch Books to others, with allowance and liking of the ſame. *Ib.*

So the Printers and Utterers of ſuch Books be all within the meaning of 5 *El. c.* 11. *ib.*

Refuſing the Oath of Supremacy, the firſt offence is *Præmunire*, the ſecond offence treaſon. 5 *El. c.* 11. *ib. Lam.* 410.

To obtain from *Rome*, or by any authority from thence, any Bull or Writing to abſolve and reconcile

ſuch as will forſake their obedience to the King, and yield it to the Pope, or give or take abſolution by colour of ſuch Bull, or publiſh or put in ure ſuch Bull. 13 *El. c.* 2. *ib Lam.* 226.

To abſolve, perſwade, or withdraw any ſubject from their obedience to the King, or to reconcile them to the Pope, or to draw them to the Romiſh Religion for that intent; or, move them to promiſe obedience to any other State, or procure, counſel, or aid them that do it, is Treaſon. 23 *El. c.* 1. 3 *Jac. c.* 4. *Lam.* 220, 226, 412. *Dal.* 332.

To be willingly abſolved, perſwaded, withdrawn, or reconciled to promiſe ſuch obedience, or to procure, counſel, aid and maintain the ſame, is treaſon, except within ſix days after their return into the Realm they ſubmit according to the ſtatute. 3 *Jac. cap.* 4. *Dal.* 332.

For Jeſuit, Prieſt, or other Eccleſiaſtic perſon (made by authority from the Pope) to come into, or remain in any of the Kings Dominions, contrary to 27 *El. c.* 2. is treaſon. *Dal.* 332. *Vide* Jeſuit, Præmunire.

To compaſs the death of an Uſurper of the Crown, is treaſon, for which the offender may be arraigned in another Kings time. *Br. Treaſon.* 10. *Dal.*

To intend to deprive, depoſe, or diſinherit the King, or ſay he will be King after the King dieth. *Dal.* 326. Duke of *Buck.* Caſe. 13 *H.* 8. *fo.* 12. ſaying, Behold *K. Ed. Dyer* 128 *Vide* 7 *Co.* 10.

To ſet at large unlawfully any committed for treaſon, is treaſon by the Common Law. *Dal.* 330. 1 *H.* 6. *fo.* 5.

One impriſoned for felony, breaketh priſon, whereby a traitor eſcapeth, it is treaſon in him by the Common Law. *Dal.* 330. *Cro* 35. 2. *nu.* 5.

Voluntarily to ſuffer one to eſcape that is committed, or only under arreſt for treaſon, is treaſon by the Common Law. *Stam.* 32. *Dal.* 330.

Forfeiture

Forfeiture in caſe of Treaſon is of Lands and Goods to the King, and at this day by 26 *H.* 8. *c.* 13. 5 *Ed.* 6. *c.* 11. his lands entailed, and his wife her dower, ſaving in certain caſes. *Dal.* 335.

Judgment and condemnation of a woman in caſe of treaſon, is to be drawn on a Hurdle to execution, and burned. *Stamf.* 182. *Dal.* 339.

Other matters of treaſon, or malicious words of his Majeſty, *vide* in 13 *Car* 2. *c.* 1.

An Act of *Non compos mentis*, that done by a ſober man is treaſon, is ſo in *Non compos*, *&c.* 2 *Roll.* 324.

Treaſons made by ſeveral ſtat. (*vide Dal.* 330.) ſince 25 *Ed.* which was declarative of the Common Law; but repealed by 1 *Ma.* or before. *Dal.* 330.

Additions or Expoſitions of Treaſons by 25 *Ed.* 3. have been made by 1 *M.* 6. 1. 2 *P. M.* 11. 5 *El.* 11. 14 *El.* 3. 18 *El.* 1. whereof treaſon as to the Kings Coin, or Seal is more fully prohibited. *Dal.* 331. So others for the preſervation of Queen *Elizabeth* (and the Imperial Crown from *Romes* Uſurpation (in her Reign, *ib.*

Juſtices of Peace may inquire in their Quarter Seſſions of offences againſt 5 *El.* and ſhall certifie the Preſentment into *B. R.* in forty days, or forfeit an hundred pounds, and the Juſtices of *B.R.* ſhall determine. *Dal.* 331.

Treaſon by words; to ſay the King excommunicated by the Pope, may be lawfully depoſed, and killed, *&c.* *P.* 13 *Jac.* *Owens* Caſe. *Dal.* 327.

Treaſon by writing; one *Williams* wrote Books, whereof one was intituled *Speculum Regale*, wherein he propheſied of the Kings death, *&c.* It was held High Treaſon, *P.* 17 *Jac.* 2 *Roll.* 88. *Vide Dal.* 326.

To compaſs, *&c.* death, deſtruction, bodily harm tending to death, *&c.* maiming, wounding, impriſonment, reſtraint of the Kings perſon during his life; or to depoſe him from the Style, Honour, or Kingly Name; or levy war againſt him within or without

out the Kingdom; or stir any Foreigner to invade it; and such compassing, &c. declare by Printing, Preaching, malicious advised Speeches; convict by two witnesses, or course of Law; is High Treason, and incurrs such forfeiture. 13 *Car.* 2. *c* 1.

Maliciously and advisedly to publish or affirm (during the Kings life) that he is a Heretick, Papist, or endeavours to introduce Popery; or by Writing, Printing, Preaching, or other Speeches expres any thing to stir up the people to dislike of his Majesties person or Government; is disability of having any Office or promotion Ecclesiastick, Civil, or Military, and such punishment as the Law inflicts.

So maliciously, &c. affirming the Parliament, begun in 1640, to be not dissolved, or ought to be in being; or that there is any obligation from any Oath, Covenant, or Engagement, to endeavour a change of the Government; or that both (or either) Houses of Parliament have a Legislative Power without the King, &c. incurs *Præmunire*, and the penalty thereof mentioned in 16 *R.* 2.

None shall be prosecuted for these offences (except for the treason) but by the Kings order under his Sign manual, or by Order of Council directed to the Attorney General, or other Learned Council; nor incur the penalties, unless prosecuted in six months. 13 *Car.* 2.

So not indicted, &c. of the treason or offences, unless accused by two witnesses upon Oath face to face. *Ibid.*

Treasurer

For relief of Goals, is to be chosen at Easter Quarter Sessions by the more part of the Justices of Peace, to be of five pounds in lands, or ten pounds in goods in the last Subsidy, to continue but for one year, and then

to give up his account at Eaſter Seſſions to his Succeſſor. 43 *El. c.* 2.

The elected refuſing the Office, or to give relief, or account, is to be fined by the Juſtices in Seſſions, or by the Juſtices of Aſſizes by diſcretion, but not under three pounds. *Ib.*

Treaſurer for Goals is to pay over to the Lord Chief Juſtice and to the Knight Marſhal quarterly ſuch ſums as the Juſtices of Peace do appoint. *Ib.*

Treaſurer for maimed Soldiers is to be elected by the more part of the Juſtices at Eaſter Seſſions, and (not being a Juſtice of Peace) to be ten pounds in lands, or fifteen pounds in goods in the laſt Subſidy, to continue but one year, and for refuſing the Office, or miſdemeanors, *&c.* to be fined by the more part of the Juſtices, but not under five pounds. 43 *El. c.* 3. And to give up his account to his Succeſſor within ten days after the Seſſions. *Dal.* 228.

The Churchwardens are ten days before every Quarter Seſſions to pay over to the High Conſtables the taxations for Goals. 43 *El. c.* 2. And the Churchwardens and Pety Conſtable at the ſame time to pay to the High Conſtable the tax for maimed Soldiers. 43 *El. c.* 3. And the High Conſtables are to pay the ſame to the Treaſurers at the next Quarter Seſſions. 43 *El. c.* 2. & 3.

If default of payment be made by the High Conſtable, he doth incur the penalties, *viz.* of twenty ſhillings a time for the Goal-money, 43 *El. c.* 2. and of forty ſhillings for Soldiers money. *c.* 3. And if default be in the Churchwardens for Goal-money ten ſhillings a time; if for Soldiers money, the Churchwardens and Pety Conſtables loſe twenty ſhillings a time 43 *El. c.* 2. & 3. The ſaid forfeitures to be levied by the Treaſurer by diſtreſs and ſale of the offenders goods, and taken in augmentation of the ſtock. *Dal.* 228.

Treſpaſs.

Treſpaſs. Vide *Hedge-breakers.*

Trial.

As well Noblemen as Gentlemen in caſes of Felony or Treaſon, or miſpriſion of treaſon, are to be tried by their equals. *Lam.* 539.

In Riots, Routs, Unlawful Aſſemblies and Forcible Entries, Nobility ſhall be tried by Common Jurors. *Ibid.*

All Foreign Pleas triable by Jury, and pleaded by any indicted of Treaſon, Murder or Felony, ſhall be tried in the County where the party is arraigned, and by Jurors of that County. 22 *H.* 1. *c.* 14. 32 *H.* 8. *c.* 3. *Lam* 552.

Aliens indicted of Felony or Murder, muſt be tried *per medietatem linguæ. Lam.* 554.

Peer of the Realm indicted of treaſons upon the ſtatute of 3 *Fac. c.* 4. is to be tried by his Peers. 3 *Fac. cap.* 4.

So upon 2 *Fac.* 12. of Witchcraft. *Lam.* 415.

All treaſons, miſpriſion of treaſons, and concealment of treaſon, done or committed out of the Realm, ſhall be inquired and tried within the Realm. 35 *H.* 8. *c.* 2. *Dal.* 336. *Co. Inſt.* 261. b.

He who is no Lord of the Parliament being arraigned for treaſon, or felony, ſhall be tryed by Knights and others, and not by Lords of the Parliament. So ſhall Biſhops by reaſon that they are Lords of the Parliament by their Office, and not in reſpect of their Nobility. *Cro.* 110. b. *nu.* 6. *Stamf.* 143 a.

Trial of Petty Larceny and ſmall Felonies may be at the Quarter Seſſions. 3 *H.* 7. 3.

Crimes (by the Law of *England*) committed in *Scotland* by perſons flying into *England*, and apprehended

hended in *Northumberland*, &c. upon examination and proof before four Juſtices of Peace, may be remanded into *Scotland* by their Warrants under ſeal, to receive trial. 7 *Jac.* 1. *Dal.* 541.

Trial of Felony by a Kings ſervant conſpiring the Kings (or Lords, &c.) death, is by a Jury of the Check-Roll before the Steward, Treaſurer, or Controller of the Kings Houſe. *Dal.* 73.

Turn of the Sheriff.

Indictment at the Sheriffs Turn to be certified to the Juſtices at the Quarter Seſſions, and muſt be received by the Juſtices. 1 *Ed.* 4. *c.* 12. *Vide* Certificate.

Enditement of Robbery was at the Turn after the month, and held to be *coram non judice.* 10 *Co.* 76. b.

Sheriffs Turn to be holden within a month after Eaſter, or within the month after *Michaelmas.* *Lamb.* 504.

Eſtreats of the Juſtices of Peace of Fines aſſeſſed upon preſentments in the Turn, being inrolled and indented are to be levied by the Sheriff, to the uſe of him that was Sheriff at the time of Preſentment. 1 *Ed.* 3. *c.* 7. *Lamb.* 585.

Bloodſhed found in the Sheriffs Turn, &c. not traverſable. *Vide* Bloodſhed.

V *Agabonds.* Vide *Rogues.*

Venire

Venire facias.

Juſtices of Peace may award a *Venire facias* againſt the Enditor, to amend a Bill upon the firſt Oath. *Lam.* 507. 8 *H.* 5. *c.* 8. *Stam.* 97.

Juſtices of Peace cannot award a *Venire facias ad matronas*, to know whether a Felon be with child or no. *Lam.* 551.

Verdict.

The Jury in caſe of Felony may give a ſpecial verdict, if they will, and the Court, upon examination of the matter, may judge contrary to the verdict. As, the Jury found that *A* killed *B*, *ſe defendendo*, and upon examination of the matter, the Court adjudged it to be man-ſlaughter againſt the verdict. *Cro.* 114. 2. *nu.* 1.

Tho the Indictment ſpecifie the goods to be above twelve pence, yet the Jury may ſay, that the goods were worth but eight pence, upon which verdict it ſhall be taken as pety larceny. *Cro* 114. 2. *nu.* 2.

A man is arraigned of murder, and by the Jury it is found but man-ſlaughter; it is good. *Cro.* 114. 2. *nu.* 3.

Veſſels.

Veſſels of Ale and Beer are to be made of ſeaſoned wood, with the mark of him that ſealed it. *Lam.* 460.

Every Barrel for Beer, and every Barrel for Ale, and ſo every leſſer Veſſel, by 32 *H.* 8. *cap.* 4. ought to contain under pain of three ſhillings four pence for each default.

BEER.

Barrel, thirty ſix Gallons. Kilderkin, eighteen Gallons. Firkin, nine Gallons.

ALE.

Barrel, thirty two Gallons. Kilderkin, ſixteen Gallons. Firkin, eight Gallons.

But now by the ſtatute 1 *Jac. c.* 9. Ale and Beer ſhall be ſold by retail by one and the ſame meaſure; namely by the Ale-quart. *Cro.* 94. b. *Dal.* 27.

Vide Aſſiſe of Bread and Beer.

WINE, OYL, HONEY.

Tun, two hundred and fifty two Gallons. Pipe, one hundred and twenty ſix Gallons. Hogſhead, ſixty three Gallons. Barrel, thirty two Gallons and a half. Rundlet ſixteen Gallons and a half. *Dal.* 251, 252, 253.

But *Crompton* 49. from *Popham*, Chief Juſtice, ſaith, that the meaſure of Wine and Ale ſhould be all one, and that ſo it was agreed by the Juſtices according to the Standard of the Exchequer. But note, ſaith, *Crompton* there, that the Ale-quart is greater, for that the Froth of the Ale amounts a little, and Wine doth not froth, and therefore there ſhould be a nick in the top of the wooden Kan, where the meaſure ſhould be, to which nick the Ale ſhould come. *Cro* 94. b. And ſo Maſter *Wallis* Clark of the Qu. Market told him, *January* 25, 1588.

Herring the Barrel, Half-barrel, Firkin, ſhall be of the ſame Content that Ale is, namely the Barrel thirty two Gallons, *&c.* 13 *El. c.* 11. 11 *H.* 7. *c.* 23. *Dal.* 254.

Sope

Sope and Butter ſhall be of the ſame content with Ale, and the empty Barrel not to be in weight above twenty ſix pounds, and for the other Veſſels in proportion. 23 *H.* 8. *c.* 4. *Dal.* 254. *Lam* 461. The penalty is three ſhillings four pence for each one.

Victuals and Victuallers.

If Butcher, Fiſhmonger, Inholder, Tipler, Brewer, Baker, Poulterer, and other Seller of Victual, do ſell at unreaſonable rates, and not for moderate gain, they loſe double value. *Lam.* 454. 23 *E.* 3. *c.* 6. & 13 *R.* 2. *c.* 8.

Brewer ſelling drink at higher prices than have been appointed by the Juſtices of Peace, loſeth after the rate of ſix ſhillings a Barrel. 23 *H.* 8. *c.* 4. *Lam.* 455.

Conſpiracy, or Oath taken, or promiſe made by Butchers, Bakers, Brewers, Poulterers, Cooks, Fruiterers, or any myſtery, or any of them, not to ſell but at prices agreed between them, the firſt offence ten pounds, or twenty days impriſonment; the ſecond, twenty pounds, or Pillory: the third, forty pounds, or loſe an ear. 2 *Ed.* 6 *c.* 15. *Lam.* 455.

To ſell ſwines fleſh mezelled, or fleſh that died of the murrain, or other corrupt victual, *Stat. de piſtoribus*, *c.* 7. 51 *H.* 3. *Lam.* 455. is finable.

Any, except Victuallers in their houſes, buying to ſell again by retail Butter or Cheeſe, unleſs it be in open Fair or Market, loſeth double value, 3 *Ed.* 6. *c.* 21. 14 *El. c.* 11. 27 *El. c.* 11. *Lamb* 456. 1 *Jac c.* 25.

Proceſs upon the ſtatute of 23 *H.* 6. *c.* 13 againſt Victuallers is Attachment, *Capias*, and Exigent.

Brewer, or other ſelling of Ale or Beer unto any unlicenſed Alehouſe keeper, other than for neceſſary proviſion for his own houſhold, loſeth after the rate of ſix ſhillings eight pence a Barrel; one moiety to the poor,

Poor, the other to the Informer, to be heard and determined at the Quarter Seſſions. 4 *Jac. c.* 4. *Lamb.* 460.

The Officer levying the penalty of 4 *Jac. c.* 4. and not delivering the moiety to the Churchwarden or Overſeers of the Poor; or not diſtributing it within convenient time after receit; forfeiteth the double to be recovered as the penalty. 4 *Jac. c.* 4.

Victualler is within the ſtatute. 1 *Jac. c.* 9. 4 *Jac. c.* 5. 1 *Car. c.* 4.

Vide Tranſportation, Ale-houſes, Tipling.

Under-Sheriff.

Cuſtos Rotulorum, or two Juſtices of the Peace one to be of the Quorum, may give unto Underſheriffs, before they exerciſe their Office, the Oaths of 1 *El.* of Supremacy, and 27 *El. c.* 12. touching their Office; ſo of their Deputies and Clerks, or any other meddling with returning of writs, or execution of proceſs into any Court of Record. So of Bailiffs, any of them executing their Office before ſuch Oaths taken, loſe forty pounds. 27 *El. c.* 12. *Lam.* 356, 432, 433.

Underſheriff, or his Clark, or Deputy doing any thing againſt their Oath, loſe trebie damages to the party. *Lam.* 443.

Unlawful Games.

Every Juſtice of Peace may enter into any common place where any playing at Dice, Tables, Cards, Bowls, Coits, Cails, Tennis, Caſting the Stone, Foot-ball; or other unlawful Game now invented, and hereafter to be invented, ſhall be ſuſpected to be uſed, and may arreſt the keeper of every ſuch place, and may impriſon them until they find ſureties by recogni-

zance no longer to uſe ſuch Houſe, Game, Play, Alley or Place. 33 *H.* 8. *c.* 9. *Lam.* 191. *Dal.* 90. *Cro* 79. *a.* 131. *a.* 1, 6. *a.* 197. *b. Lam.* 349, 479.

Juſtice of Peace may arreſt and impriſon ſuch Players till they be bound no more to play at ſuch Game. *Lam.* 191. *Cro.* 172. *a.b. Lam.* 349, 479. *Dal.* 90.

Artificer of any Occupation, or any Husbandman, Apprentice, Labourer, Servant at Husbandry, Journeyman, Servant of Artificer, Mariner, Fiſherman, Waterman, or Serving-man (other than of a Nobleman, or of him that may diſpend an hundred pounds by the year) playing within the precinct of his Maſters Houſe, ſhall not play out of Chriſtmas at any Unlawful Game, or in Chriſtmas out of the Houſe or preſence of his Maſter. 33 *H.* 8. *c.* 9. *Lam.* 479. twenty ſhillings every time. *Quare* if other Games beſides thoſe prohibited, 33 *H.* 8. *c.* 9. be unlawful; as the Morrice, and other open Dances, Bear-baitings, Common Plays, and Fencings, which ſeem to be prohibited by 39 *El. c.* 4. *Dal.* 92. 1 *Car. c.* 1.

All offences againſt the ſtatute of Unlawful Games, may be heard and determined at the Quarter Seſſions, Aſſiſes, or Leet, within which they ſhall happen. *Lam.* 214. *Vide plus* in Sunday.

Unlawful Aſſemblies.

An Unlawful Aſſembly is, of the company of three or more perſons diſorderly coming together, forcibly to commit an unlawful act; as to beat a man, or enter upon his poſſeſſion, or the like. *Lam.* 175. *Dal.* 320. *P. P.* 25. *Cro.* 61. *a. nu.* 3.

Firſt, an Unlawful Aſſembly it is, only to meet to ſuch a purpoſe, tho they willingly depart without doing any thing. Secondly, after meeting to move forward toward the executing of ſuch act, whether it be done or no; is a Rout. Thirdly, to execute ſuch a thing; is,

a Riot

a Riot. *Dal.* 321. *Lam.* 175, 176. *Cro.* 61. 2. *nu.* 3.

In an unlawful Aſſembly, Rout or Riot, two things are common, and muſt concur: firſt, that three perſons at leaſt be gathered together: ſecondly, that their being together, breed ſome apparent diſturbance of the Peace, either by ſpeech, ſhew of Armor, turbulent geſture, or actual and expreſs violence to affright peaceable men, or imbolden light and buſie bodies by their examples. *Lam.* 176, 177.

There be three degrees of ſedicious and riotous Aſſemblies: the firſt from three to twelve; the ſecond of twelve or more; the third of forty and upward. *Lam.* 183. 1 *El. c.* 17. Juſtice of Peace may at his diſcretion aſſemble ſubjects to take ſuch, and may take them, and ſhall be unpuniſhed for hurting, maiming, or killing them, if they make reſiſtance. *Lam.* 184.

Juſtice of Peace is to take the Declaration of any perſon that (being moved to ſuch an aſſembly) will within twenty four hours after reveal the ſame. *Lamb. ibid.*

Vide Forcible Entry, Riots.

Uſury.

Corruptly to contract for more than eight (now ſix) pounds in the Hundred, for forbearance for one year, loſeth treble value of the monies, wares, merchandiſe and other things ſo lent, bargained, ſold, exchanged or ſhifted. 21 *Jac c.* 17.

Scriveners taking above five ſhillings for procuring an hundred pounds, and for a bond above twelve pence, forfeit twenty pounds. *Ib.*

Wages.

RAtes of Wages of Servants and Labourers are to be made by the Juſtices of Peace at Eaſter Quarter Seſſions, and by them to be ingroſſed in parchment under their hands and ſeals, and after it ſhall be lawful for the Sheriff of the ſaid County to cauſe proclamation to be made of the ſeveral rates ſo rated in ſo many places of their ſeveral authorities as to them ſhall ſeem convenient, and as if the ſame had been ſet down Printed by the Lord Chancellor or Keeper, after declaration thereof to the Kings Majeſty, and certificate thereof into the Chancery. 39 *El. c.* 12. 1 *Jac. c.* 6.

Any giving wages contrary to the rates appointed and proclaimed, loſeth five pounds. 5 *El. c.* 4. 1 *Jac. c.* 6. *Lam.* 471.

Every Juſtice of Peace (not having lawful excuſe teſtified by oath of one that is in ſubſidy five pounds, *&c.*) that ſhall not aſſemble at Eaſter Seſſions, or within ſix weeks after, to rate the wages of Servants, *&c* ſhall loſe ten pounds. 5 *El. c.* 4. *Lam.* 632.

Any having authority by 5 *El. c.* 4. to rate wages, may rate the wages of Labourers, Weavers, Spinſters, and of any working by day, week, month, or year, or by great 1 *Jac. c.* 6.

No penalty for not certifying the rates of wages into the Chancery, according to the ſtatute of 5 *El. c.* 4. if they be duly proclaimed. 1 *Jac. c.* 6.

Rates of Wages ingroſſed in parchment are to be kept by the *Cuſtos Rotulorum*; if in a Croporation, among the records thereof. *Ib.*

Any

Any two Juſtices of Peace may impriſon without bail the Maſter for ten days, for giving, and the ſervant, Workman or Labourer for twenty one days, for taking greater wages than are aſſeſſed by the Juſtices of Peace, and Proclamation thereof made in that County. 5 *El. c.* 4. *Dal.* 823. Every retainer, promiſe or payment of wages, or other thing whatſoever, contrary to the true meaning of 5 *El. c.* 4. and every writing and bond for that purpoſe is utterly void. *Dal.* 823.

Juſtice of Peace may have his action of debt againſt the Sheriff for his wages at the Seſſions. *Cro.* 177. 2. *nu.* 23.

Juſtices of Peace ſhall be paid their wages out of the fines and amerciaments of the ſame Seſſions; and they ought to aſſeſs the fines in the Court, and the Clark ſhall indent the eſtreats betwixt the Juſtices and the Sheriff, and the Juſtices ſhall put their names thereto, to the end the Sheriff may know to whom to pay wages, and levy the ſame to pay to the Juſtices, whereupon the Sheriff ſhall be allowed the ſame upon his account in the Exchequer. 14 *R.* 2. *c.* 11. *Lam.* 628. *Cro* 177. 2. *nu.* 30.

Wainlings.

Any killing any Wainling Calves under two years old to ſell, loſe ſix ſhillings eight pence for every offence determinable at the Quarter Seſſions. 24 *H.* 8. *c.* 9. 1 *Fac. cap.* 25. *Lam.* 453, 607.

Wait-laying.

Lying in wait to maim or kill any other, is to be fined. *Lam.* 446.

Warrants.

The Juſtice of Peace his command by word of mouth is in ſome caſes as ſtrong as his precept in writing. *Dal.* 195. As

A Juſtice of Peace ſeeing a Riot, may command the Rioters to be arreſted, and cauſe them to find ſureties for their good behaviour. *Dal.* 195.

So upon affray, aſſault, threatning, or any other breach of the peace done in his preſence, he may command the Officer being preſent to arreſt ſuch offenders to find ſurety for the Peace. *Dal.* 136, 263, 271.

But for cauſes out of his preſence one may not arreſt another upon the Juſtices command, but by precept in writing. *Dal.* 271. *Br. Peace* 7.

A warrant in writing muſt be under the Juſtices hand and ſeal, or under his hand at leaſt. *Dal.* 460. *Lam.* 85, 88. But it is better if under ſeal. *Dal.* 460.

In a return of a Reſcue *quod fecit warrantum*, it ſhall be intended, by writing, tho not expreſſed. 3 *Co.* 44. 1. *Cro.* 181.

A warrant for the peace or good behaviour muſt contain the ſpecial matter. *Dal.* 460. *Lam.* 87. But it is better under his Seal. *Dal.* 460.

A warrant for treaſon, murder or felony, or other capital offence, and ſuch like, need not contain the ſpecial cauſe. *Cro.* 148. 2. *Dal.* 460.

A warrant is the better, if it contain and bear the date at the place where it is made, the year and day when it was made. *Cro.* 174. 2. *Dal.* 461. *Lam* 88.

Juſtice of Peace being out of the County, granteth his warrant to be ſerved in the County; the Officer muſt carry the party before ſome Juſtice of Peace within the County. *Dal.* 461. *Lam.* 91.

The County writ in the margent of the warrant, albeit it be not expreſſed in the warrant; and in *Com.*

præſidio,

prædicto, ſhall have relation to the County ſet in the margent. *Cro.* 102. b. *nu.* 29.

Juſtice of Peace may make his warrant to come before himſelf: yet upon a warrant for the Peace the uſual manner is otherwiſe. *Co.* 5. 59. *Dal.* 461.

The Officer ſhall chuſe before what Juſtice of Peace upon a general warrant. *Dal.* 49. 5 *Co.* 59. b.

In ſome caſes a Juſtice of Peace may grant his warrant to attach the offender to be at the next Seſſions of the Peace, to anſwer his ſaid offence. *Dal.* 461.

Juſtice of Peace may grant his warrant againſt one that hath broken the Peace, or committed miſdemeanors againſt the peace, to find ſureties for the peace, or behaviour. *Dal.* 461.

Juſtices of Peace in divers caſes (as the caſe ſhall require) may grant their warrant for the parties neglect, or other default, and ſuch warrant may be either to attach him to be at the next Seſſions, there to anſwer, *&c.* or to bring the offender before the ſaid Juſtices, or any other Juſtice, *&c.* who finding cauſe to bind him, may bind him to the next Seſſions to anſwer the ſaid default. *Vide Dal.* 461.

Where the ſtatute giveth authority to Juſtices of Peace to cauſe another to do a thing, they have power of congruity to grant their warrant to bring ſuch perſons before them, that ſo they may take order therein. *Quære Dal.* 461.

A Juſtice of Peace maketh a warrant beyond his authority; it is not diſputable by Conſtable or other inferior Officer, but muſt be obeyed. *Lam.* 65. *Dal.* 8, 465.

But if the Juſtice make a warrant to do a thing out of his juriſdiction; or in a cauſe wherein he is not a Judge; if the Officer execute the warrant, he is puniſhable. *Cro* 147. b. *Dal.* 8, 865. *Lam.* 91, 92.

Warrant for the peace may be directed to any indifferent perſon by name, tho he be not Officer: yet it is better to a known Officer. *Dal.* 463. *Cro.* 147. 2. *Lam.* 88.

A ſworn and known Officer need not to ſhew his warrant; but the ſervant of the Juſtice muſt ſhew if it be required. *Dal.*464. *Lam* 89. *Cro.*148. a.

A warrant directed to the Conſtable and to a ſtranger jointly and ſeverally, and executed ſolely by the ſtranger; is good. *Cro.*127 b. *Dal* 465.

Warrant directed to two jointly to arreſt another, may be executed by one of them. *Dal.ib. Lam.*89.

A Juſtice of Peace may make his warrant to the Sheriff, to attach one to bring him to the Seſſions to find ſurety of the peace. *Cro.* 136. a.

A warrant being directed by a Juſtice of Peace to the Sheriff, he may by word command any ſworn or known Officer under him without precept in writing. *Dal.*463. *Lam.* 89.

If a Juſtice of Peace his warrant be directed to the Sheriff, Bailiff, Conſtable, Juſtices ſervant, or other to arreſt one, ſuch perſon muſt ſerve it himſelf. *Ib.*

He to whom any warrant ſhall be directed, muſt do it with all ſecreſie and ſpeed. *Dal. ib.*

A known Officer muſt, if he will not ſhew his warrant upon arreſt, declare the contents of his warrant. *Cu.*54. *& 9.* 68. *Dal.*164.

Upon arreſt in the Kings name, the party arreſted ought to obey *Dal. ib.* for if he have not lawful warrant, the party grieved may have his action of falſe impriſonment. *Dal. ib. Co. 9.* 68.

An Officer arreſting a man, doth afterwards procure a warrant; this is a wrongful arreſt. *Dal.ib.Lam.* 90. 91.

The Officer having a warrant for the peace, or good behaviour, may break open the Doors. *Dal. ib. Co.* 170. b.

One is arreſted, who upon promiſe to come again, is let go, and cometh not again; the Officer cannot arreſt him by force of his former warrant, except he proſecutes him with freſh ſuit. *Dal. ib. Br. Faux impriſ.* 18.

An

An Officer having a lawful warrant to arreſt another, is reſiſted or aſſaulted by the party, or any other perſon; the Officer may juſtifie the beating or hurting ſuch perſon. *Dal.* 465. *Lam.* 92.

If any abuſe the warrant; as by caſting it in the dirt; or treading it under his feet; he ſhall be indicted and fined: for it is the Kings proceſs. *Dal.* 465. *Cro.* 149. *Quære*, whether he ſhall not be bound to his good behaviour. *Dal.* 465.

Before that a Juſtice of Peace grant his warrant to arreſt one for murder, robbery, or felony; it is meet to examine the party that requireth the warrant upon Oath, and to bind him to give evidence at the next Goal delivery. *Ib.*

Juſtice of Peace is not to grant his warrant for an offender againſt a penal ſtatute to appear at the Seſſions, unleſs it be appointed by ſtatute; but he ought firſt to be indicted. *Lam.* 187. *Dal.* 462. *Cro.* 197. 2. *nu.* 21.

Juſtice of Peace cannot make a warrant to arreſt a felon, except he be indicted. *Cro.* 147. b. But *Dalton* argueth, that a Juſtice of Peace may make ſuch a warrant. *Vide Dal.* 462.

One wrote to a Juſtice of Peace, to ſend him a warrant with a blank, to inſert therein one whom he would attach for ſuſpicion of felony. The Juſtice did ſo: And for that he ſent his warrant with a blank, to put in a name which he know not, nor the matter, before the making of the warrant, he was fined in the Star-Chamber. *Cro. Juriſd.* 34. 2. *Dal.* 460.

All warrants made in the Kings name, ought to be directed, To all Miniſters, as well within Liberties, as without. *Dal.* 355.

Warrants may be made either 1. In the name of the King; or 2. In the name of the Juſtice; and either of them muſt be teſtified by the Juſtice from whom they iſſue; or 3. Without ſtyle by the ſubſcription of the Juſtice. *Dal.* 335.

To what Officers Warrants are to be directed by particular Statutes.

To the Churchwardens, for negligent comers to Church, to levy twelve pence. 3 *Jac. c.* 4.

To the Conſtable or Churchwardens againſt an Alehouſe-keeper, to levy ten ſhillings for ſuffering tipling. 1 *Jac. c.* 9.

To levy twenty ſhillings for breaking the Aſſiſe. 2 *Jac. cap.* 9.

For ſelling Ale without licence, twenty ſhillings. 3 *Car. c.* 4.

For tipling in an Alehouſe three ſhillings four pence. 1 *Jac. c.* 9.

For Abuſes on the Lords day. 1 *Car. c.* 1.

For Carriers on the Lords day, twenty ſhillings. 3 *Car. c.* 1.

Shewing Boots to ſell on Sunday, three ſhillings four pence. 1 *Jac. c.* 22.

To the Conſtables, Churchwardens, or Overſeers of the poor for ſwearing, twelve pence. 21 *Jac. c.* 20.

To the Conſtable or other inferior Officer for drunkenneſs, five ſhillings. 4 *Jac. c.* 5. 1 *Jac. c.* 7.

Warreners. Vide *Foreſters.*

Watches

Are properly for the night; Warding for the day. *Dal.* 240.

Any Juſtice of Peace may cauſe Night-watches to be kept for the arreſting of Night-walkers, and perſons ſuſpect, be they ſtrangers, or others of evil fame, Rogues, Vagabonds, Eves-droppers, Scouts, armed perſons, &c. *Dal.* 239. 13 *E.* 1. *Stat. Winton. c.* 4.

Watch is to be kept yearly from *Aſcenſion* day till *Michaelmas* in every Town, from ſun ſetting, to ſunriſing. *Dal.* 239. *Lam.* 440.

In

In great walled Towns, the Gates ſhall be ſhut from ſun-ſet to ſun-riſe, and none ſhall lodge out of Town (in the Suburbs) from nine till day, unleſs his Hoſt anſwer for him. 5 *H.* 4. 3. 5 *Ed.* 3. 14.

All ſtrangers or perſons ſuſpected paſſing by the watching men, may be examined by them; and if there be cauſe of ſuſpicion, they may ſtay them, and if they will not obey, may levy hue and cry, and may juſtifie to beat them, and may ſtock them till morning, and if they find no cauſe of ſuſpicion, deliver them; but if they find cauſe, may deliver them to the Conſtable, to carry them before a Juſtice of Peace. *Dal.* 239.

Any Juſtice of Peace may cauſe all Night-walkers, Strangers, or other Suſpects; eſpecially ſuch as ſleep in the day and walk in the night, to be arreſted; and ſuch as in the night haunt any houſe ſuſpected of Bawdery; or uſe ſuſpicious company; or commit other outrages or miſdemeanors; and cauſe them to find ſureties for their good behaviour. *Dal.* 140. *Lam.* 118, 119.

No man is compelled to watch, unleſs he be an inhabitant in the Town. *Dal.* 240.

Inhabitants are not compellable to watch at the will of the Conſtable, but when his turn cometh. *Dal. ib.* Thoſe that are, puniſhed, if they refuſe. *Ib.*

Watermen.

Every Juſtice of Peace within the Shire next adjoyning to the River of *Thames* within his juriſdiction, hath power upon complaint by the Overſeers, or Rulers of the Watermen and Wherry-men, or two of them, or by the Maſters of any ſuch ſervants; both to examine, hear and determine all offences againſt the ſtatute, and ſet at large him that ſhall be impriſoned by the Overſeers and Rulers, if there be juſt cauſe, and alſo by his diſcretion to puniſh thoſe Overſeers and Rulers, that

that ſhall unjuſtly puniſh any perſon. 2 & 3 *Ph. & M. c.* 16. *Lam.* 203. *Dal.* 242.

The offences againſt the Statute, are

1. No ſingle man ſhall be a Waterman. 1 *Jacob. cap* 16.

2. One of the two rowing in one Boat, muſt be allowed by eight of the Overſeers by writing under ſeal.

3. They ſhall not hide themſelves in time of preſſing for the Kings ſervice.

4. They ſhall not take for their fare above the price aſſeſſed, and ſet up in Tables in *Weſtminſter-Hall. Dal.* 241. *Quære*, whether the Juſtices of Peace are to meddle with this.

Wax.

One Juſtice of Peace may examine and ſearch by his diſcretion, ſuch as do ſell any candles, or work of wax above four pence in the pound clear gain over the price of the wax, and puniſh them by forfeiture of that which is to be ſold, and the value of that which is ſold, and fine to the King. *Dal.* 245. *Lamb.* 196, 469. 11 *H.* 6. *c.* 12.

Weapons Forcible. Vide *Forcible Entry.*

Weaver.

No Clothworker that dwells out of a City, or Town, ſhall keep above one Loom at a time; or make profit by letting it, or the houſe and it, upon twenty ſhillings a week pain 2, 3 *P. M.* 11. *Dalt.* 241.

No Woolen-weaver out of a Town, &c. ſhall keep above

above two Looms, or make profit by any other Loom; under twenty ſhillings a week forfeiture *Ib.*

No Weaver (not a Clothworker) ſhall keep a Tucking mill, or uſe the Trade of a Tucker, Fuller, or Dier, upon twenty ſhillings a week forfeiture.

No Tucker, or Fuller ſhall keep a Loom, upon twenty ſhillings a week pain.

No Woollen-Weaver out of a Town, &c. ſhall take Apprentice, or inſtruct in his Trade, any but his Son, or the Father or Mother have three pounds *per annum* in land. 5 *El.* 4. And for every three Apprentices ſhall keep one Journeyman, and for every Apprentice more one Journeyman. *Ib. Dal.* 242.

None ſhall uſe the Trade of a Weaver, unleſs he has been Apprentice, or uſed the Trade ſeven years, upon twenty pounds pain to the King and Informer. 2, 3 *P. M.* 11.

Weers.

Weers in Rivers may be ſurveyed by one Juſtice of Peace, which he may cauſe to be made of a reaſonable wideneſs. *Lam.* 189.

Any making weers within five miles of the mouth of the haven, or creek, or by weers deſtroying any fry of fiſh of the Sea, loſeth ten pounds; one moiety to the King, the other to the Informer. 3 *Fac. cap.* 12. *Dal.* 241. explaineth the particulars of that ſtatute of 3 *Fac. c.* 12.

Weights and Meaſures.

Faults of the Officers of Cities and Boroughs, in not viewing and examining weights and meaſures twice a year, to be heard and determined by examination and enquiry of two Juſtices of Peace, one being of the Quorum, and by them to be fined and amerced; and

ſo

ſo of faults of buyers and ſellers by other weights and meaſures than they ought to do. 11 *H.* 7. *c.* 4. 12 *H.* 7. *c.* 5. *Lam.* 356. *Dal.* 246.

Two Juſtices of the Peace (one of the Quorum) may break and burn ſuch meaſures as they find defective, and fine the offenders by their diſcretion, and make proceſs againſt them as in Treſpaſs. 12 *H.* 7. *c.* 5. *Lam.* 536 *Dal.* 246. 11 *H.* 7. *c.* 4.

Maiors of Towns taking above a penny for ſealing a buſhel, or other meaſure, or for weights above a penny for an hundred, an half penny for half an hundred, a farthing for a leſs weight; loſe forty ſhillings. 11 *Hen.* 7. *cap.* 4. *Lamb.* 437. 7 *Henr.* 7. *cap.* 3.

Buying and ſelling by unlawful weights or meaſures, or in any City or Market, with any weights or meaſures that are not lawfully marked or ſigned, he loſeth for the firſt offence ſix ſhillings eight pence; for the ſecond offence thirteen ſhillings four pence; and for the third twenty ſhillings and pillory. 11 *H.* 7. *c.* 4. *Lam* 460.

A braſs Meaſure at the charge of the perſon who has the toll and profit of the Market, ſhall be chained in the Market place, on pain of five pounds to the Poor and Informer. *Dal.* 248. 22 *Car.* 2.

The Meaſure of Keels and Boats for Coals, is to be by the Bowl-tub of *New-caſtle*, containing twenty two Gallons, and a Pottle *Winchester* Meaſure, and being twenty ſeven inches in diameter upon the top, from outſide to outſide, and no more, and allowing twenty one Bowls of Coals, to be meaſured by ſuch Bowl-tub by heap-meaſure to each Chalder; the content of each wain ſeven Bowls, and each Cart three Bowls and a buſhel heaped, three wains or ſix carts to a Chalder. 30 *Car.* 2.

To buy corn by heaped meaſure, except on ſhipboard, or to uſe double meaſure, the one to buy, the other to ſell with; the firſt offence is ſix ſhillings eight pence,

the

the ſecond thirteen ſhillings four pence; the third twenty ſhillings and pillory. 11 *H.* 7. *c.* 4. *Lam.* 460. 15 *R.* 2. *c.* 4. *ſtat. de piſtoribus. c.* 8.

Thoſe of the Town where the Kings Standard is appointed to remain, not having common weights and meaſures ſigned, or not ſelling by the ſame to all that have required the ſame are to be fined and amerced. 11 *H.* 7. *c.* 4. *Lam.* 460. *Dal.* 256. *Vide plus* in Veſſels.

Every Juſtice of the Peace may examine and convict offenders againſt the Statute of King *Charles* the Firſt, concerning weights and meaſures, and levy the penalty of five ſhillings for every offence by diſtreſs and ſale of the offenders Goods to the uſe of the poor of the pariſh where ſuch offence is committed, and for want of goods, impriſonment. 17 *Car*, *c.* 19. *Dal.* 247.

Whipping

Is the puniſhments for offenders againſt Statutes, who are not able to ſatisfie the penalty upon diſtreſs, or payment, as in caſe of Alehouſes not licenſed, *&c.* 3 *Car.* 1. So of Clothiers workmen embezelling, *&c.* 7 *Jac.* 7.

A woman convict of felony above twelve pence, and under ten ſhillings wherein a man may have his Clergy, ſhall be burnt in the hand with T, and whipped. 21 *Jac. c.* 6.

Whipping at the Carts tail, or at a Whipping-poſt for pety Larceny by the award of Juſtices of Peace, now the uſual puniſhment; formerly pillory, and cutting off ears. 3 *Inſt.* 218.

Whipping in default of payment, in caſe of Hedge-breaking, *&c.* 43 *El.* 7. So the ſecond offence whipping.

Whipping uſed by the Maſter of the Houſe of Correction, or fettering, of idle perſons ſent thither. 7 *Jac. c.* 4.

A Servant

A Servant taken with a falſe Teſtimonial ſhall be whipped as a Vagabond. *5 El.* 4.

One having ſtole a ſheet out of a Grave was whipped (But *vide* 12 *Co.* 113. it is reſolved to be felony.) *Dal.*373.

A Swearer under twelve years old is to be whipped (if he or ſhe pay not twelve pence preſently) by the Conſtable, Parent, or Maſter in the preſence of the Conſtable. 21 *Jac.*20. *Dal.* 236.

Upon diſability to pay for ſilk embezelled, whipping, or ſtocks. 14 *Car.*2.15. *Dal.* 226.

Wines

Refuſed to one demanding, and ready to pay according to the price ſet by the Lords, *&c.* may be delivered by a Juſtice of Peace, who ſhall take the money for the forfeiture. 24 *H.* 8. 6.

Wines brought in ſtrange bottoms from *France* into any part of *England*, except the Iſle of *Man* and *Wales*, forfeit the Wines, 27 *El. c.* 12. *Lam.*457.

None ſhall ſell wine without licenſe of the Maior, Aldermen, *&c.* in Corporations, or of the Juſtices of Peace of the County in open Seſſions, under five pounds penalty for every day. 7 *Ed.* 6. 5. *Dal.*242.

Any licenſed to retail wine, ſelling above the prices limited by proclamation, loſe three ſhillings four pence for every Gallon. 27. *El. c.* 11. *Lam* 458 5 *Elizab. cap.* 5.

No Officers for Wine-licenſes ſhall take fees other than five ſhillings for a licenſe; four pence for an acquittance, ſix pence for a bond under ten pounds pain to the King and Informer. 12 *Car.* 2 25. *Dal.* 242. *Quære*, if an Information lying in Seſſions, ſuit may be proſecuted there by this ſtatute. *Ib.*

No Canary Wine, Muſcadel, Alicant, or other Spaniſh or Sweet Wines, ſhall be ſold by retail at above

above eighteen pence *per* quart; no Gaſcoign, or French Wine at above eight pence *per* quart; no Rheniſh at above twelve pence *per* quart, upon forfeiture for every pint, quart, or other meaſure, five pounds, *&c.* 12 *Car.* 2. 25. *Dal.* 243.

No Wine-ſeller ſhall utter any Spaniſh Wine mixt with French or Rheniſh Wine, Cider, Perry, Honey, Sugar, Syrrups of Sugar, or Molaſſes, *&c.* Iſinglaſs, Brimſtone, Lime, Raiſins, Juice of Raiſins, Water, or any other liquor or ingredient, Clary, or other herb, or any fleſh. Nor French Wine mix'd with French or Spaniſh wines, Cider, Perry, Stumm'd wine, Vitriol, Honey, *&c.* nor any Rheniſh with French or Spaniſh wines, Cider, *&c.* upon an hundred pounds penalty for every offence of the ſeller in groſs; and forty pounds every retailer, to the King and Informer. 12 *Car.* 2. 25. *Dal.* 242.

Witneſs.

Conditio, Sexus, Ætas, Diſcretio, Fama,
Et Fortuna, Fides, in Teſtibus iſta requires.

Yet in caſe of Felony any man (tho of little worth) may be a witneſs. *Dal.* 409.

One witneſs ſufficient for proof of tipling againſt the Statutes.

So the Oath of one confeſſing the fact, good evidence againſt the reſt.

One witneſs in caſe of deſtroyers of Partridges, *&c.* *Vide* Partridges.

One witneſs to prove a Baſtard Child ſtill-born. 21 *Jac.* 17.

One witneſs to convict of drunkenneſs by 21 *Jacob.* 7.

One witneſs to convict of taking Partridges and Pheſants, with Nets and Setting Dogs againſt 1 *Jac.* 27.

One witneſs to convict Hedge-breakers. 43 *El.*

One witneſs to prove a Soldiers ſervice under the Duke of *Albemarle*,, in order to ſetting up his Trade. 5 *El.* 4.

One witneſs to convict workmen of Clothiers of embezelling wool or yarn, 7 7 *Jac.* 7.

So embezellers of Silk. 14 *Car.* 2. 15.

Two Witneſſes,

To convict an unlicenſed Alehouſe-keeper, by 3 *Car.* 1. 3.

To cauſe perſons able to work, and threatning to leave their families to the pariſh, to give ſecurity, or go to the Houſe of Correction. 7 *Jac.* 4.

To convict of ſtriking with a weapon, or drawing it, in a Church or Church yard. 5 *Ed.* 6.

To prove, upon a claim of a horſe ſtollen, it to be the owners. 31 *El.* 12.

To convict of being at a Conventicle. 22 *Car.* 2.

To convict of taking away Eggs of Partridges, &c. by 1 *Jac.* 27. or ſhooting the Fowls.

To prove the property of Goods ſtollen by Gypſies, by 22 *H.* 8. 22. 1, 2 *P. M.*

To convict of depraving the Sacrament. 1 *Ed.* 16. 1.

To convict of hunting againſt 1 *Jac.* 27.

To convict of hunting Deer. 13 *Car.* 2. *c.* 10.

To convict Foreſtallers. 3 *Ed.* 6. 14.

To convict Clothiers not paying wages to workmen aſſeſſed. 1 *Jac.* 6.

To convict of deceitful Malt-making. 39 *El.* 16.

To convict of Petitioning (in numbers above ten) the King, or Parliament. 13 *Car.* 2. *c.* 5.

To convict of breach of the Sabbath againſt 29 *Car.* 2.

To convict of offence againſt 30 *Car.* 2. for removing or altering the mark of Keels and Boats for Coals.

Witchcraft.

Invocation, Conjuration, Conſultation, Covenant, entertainment, imployment, feeding or rewarding any evil ſpirit, taking up of dead bodies, or any part thereof, to be employed in Witchcraft, or Charms, or uſing any manner of Witchcraft, whereby any perſon ſhall be killed, or any part of them waſted or lamed, and alſo the acceſſaries; is felony without Clergy. 1 *Fac. c.* 12. *Lam.* 415. *Dal.* 383.

By Witchcraft or Charms to find out hidden treaſures; to tell where loſt Goods ſhall be found; to provoke unlawful love; to deſtroy or hurt any mans body, or to attempt any of them; the firſt offence is one years impriſonment without bail, and to ſtand in the pillory ſix hours every quarter of the ſame year, and confeſs his offence; the ſecond is felony without Clergy. 1 *Fac. c.* 12. *Lam.* 415. *Dal.* 383.

Trial of Noblemen upon the ſtatute of 2 *Fac. c.* 12. of Witchcraft is to be by his Peers. *Lam.* 415.

Attainder upon the Statute. 1 *Fac. c.* 12. of Witchcraft, neither loſs of Dower, nor corruption of blood. 1 *Fac. c.* 12. *Lam. ib.*

Wood.

Upon complaint of the Lord, and diſagreement of the Lord and his Commoners, the fourth part of the Lords wood may be ſet forth by two Juſtices, appointed by the greateſt part of the Juſtices at their Seſſions, and not being of kindred or alliance, or fee to the Lord. 35 *H.* 8. *c.* 17. 13 *El. c.* 25. *Lam.* 359. *Dal.* 242.

Juſtices in Quarter Seſſions may call before them the owner of the wood, and twelve of the Commoners to ſet out the fourth part. *Lam.* 609.

Ingroſſer or Regrator of Bark, forfeiteth the Bark. 1 *Jac.* 22. *Lam.* 452.

Any ſelling of Oaks meet to be barked, before *April*, or after *June*, except for neceſſary building, as repairing of houſes, ſhips, mills, loſe the Oak, or double value. 1 *Jac. c.* 22. *Dal.* 245.

Purveyors taking Timber for the repair of the Kings ſhips or houſes, the owner may retain all the Barks lop and top, and the Purveyor taking them, loſeth for every tree forty ſhillings to the party grieved. 1 *Jac.* 22. *Lam.* 458.

Vide the ſtat. 43 *El.* Any one Juſtice of the Peace may cauſe perſons to be apprehended that are ſeen or ſuſpected for having, carrying, or conveying any burden of wood poles, young Trees, back baſt of Trees, Gates, Stiles, Poſts, Pales, Rails, Hedgwood, Broom or Furzes; and cauſe them to be whipped, or otherwiſe puniſhed according to the ſtatute of 15 *Car.* 2 *c.* 2. *ſtat.* 3. but none to be queſtioned upon this Act, unleſs within ſix weeks after the offence committed. *Dal.* 243.

Wooll and Wooll-ſeller.

Buyer of Wooll of any other than the Owner of the ſheep, or tithe, loſe the value. 14 *R.* 2. *c.* 4. *Lamb.* 452.

No foreign Wool-card, or Card-wire, or Iron-wire for making of Wool-cards ſhall be imported, nor uſed, *&c.* under penalty of forfeiting the value between the King and proſecutor. 14 *Car.* 2. 19.

Clothiers workmen embezelling Wool or Yarn, ſhall make ſatisfaction, or be whipped. 7 *Jac.* 7. *Dalton* 23.

Woollen-yarn.

Woollen-yarn.

Buyer of Woollen-yarn, and not making it into cloth, loſeth the value thereof. 8 *H.* 6. 5. *Lam.* 452.

Any ſorter, carder, kember, ſpinſter, or weaver, receiving wooll and yarn of any clothier or maker of ſtuff, and embezelling, ſelling, or detaining the ſame, and the receiver or buyer knowing thereof, upon conviction, by confeſſion or oath of one witneſs before two Juſtices of Peace, is to make ſuch recompence to the party, as the Juſtices ſhall appoint: and the offender being unable, and refuſing to do it, is to be whipped or ſtocked. 7 *Jac.* 7. *cap.* 7.

Burying in Woolen.

Statute 32 *Car.* 2. That after the ſecond of *February*, 1680, (where no Juſtice of Peace ſhall reſide, or be to be found in any pariſh where any party ſhall be interred) the Oaths of Affidavits for Burying in Woollen, may be adminiſtred not only by ſuch Magiſtrates as are mentioned in the former Act, but alſo by the Parſons, Vicars, and Curates in every Pariſh, or Chappel of Eaſe within the County where the party ſhall be interred (except the Parſon, Vicar and Curate of the Pariſh or Chappel of Eaſe where the party is interred) who are authoriſed and required to adminiſter the ſaid Oaths or Affidavits, and to atteſt the ſame under their hands *gratis*.

Women.

Women arraigned for felony, may only for one time have the benefit of their belly. *Lam.* 563.

Juſtice of Peace cannot award a *Venire facias tot matronas*, to know whether a woman felon be with child. *Lam.* 551.

Taking away a woman againſt her will, that hath land, &c. or is heir apparent, not claiming her as ward, and after marry, or deflower her, is felony without Clergy. So of the procurers, abetters, and receivers knowing thereof. 3 *H.* 7. c. 2. *Lamb* 421. 39 *El. Dal.* 392.

Vide Rape, or Raviſhment.

A woman being delivered of a Baſtard-child, and born alive, that endeavoureth privately by drowning, ſecret burning, or other way by her ſelf, or procuring others to conceal the death thereof, as that it may not come to light whether it were born alive or dead, ſhall ſuffer as in murder, except ſhe can prove by one witneſs that the child was born dead. 21 *Jac.* 27.

Women convicted of felonious taking above twelve pence, and under ten ſhillings, being not Burglary or Robbery in or near any high way, nor taking of money, goods, or chattels from the perſon of any, privily or as acceſſary to any ſuch offence, wherein a man may have his Clergy, ſhall for the firſt offence be burned in the hand, and further impriſoned, whipped and ſtocked, or ſent to the houſe of Correction (not above a year) as the Juſtices before whom the conviction is, ſhall think meet. 21 *Jac.* 6. *Dal.* 375.

Wife and her husband are bound to appear at the Seſſions, and in the mean time to keep the peace. The husband only appearing, the Recognizance is not forfeited. *Dal.* 279. *Quære tamen. Cro.* 144. b.

A woman couverte cannot be indicted of Baratry, but it ſhall be quaſh'd. 2 *Ro.* 39.

A woman converte is held to be within the ſtatute of *Merton* for Raviſhment of Wards. *Dal.* 325.

So within the ſtatute of *Weſt.* 1. *De malefactoribus in Parcis. Ib.*

So within 8 *H.* 6. of Forcible Entry. *Ib.*

So within 1 *El.* for Recuſancy, tho not named in any of theſe Statutes.

A woman couverte is punishable for a Riot, and

and shall anſwer, and be party to the Judgment alone.

But a number of Women (and Children under the age of diſcretion) flocking together for their own cauſe, unleſs by a man to do an unlawful act, is no Aſſembly punishable. *Dal.* 325.

Yet women apparalled in mens habit, and pulling down an incloſure, were punished in the Star-Chamber. *Lam. Dal.* 325.

Women and Children may commit a Force, Larceny, and may be bound to the Peace.

A woman may (by cuſtom) be choſen Conſtable, but shall execute the place by deputy. 1 *Car.* 1.

Women Eccleſiaſtic, and ſick perſons are not obliged to attend, where the Juſtice, Sheriff, *&c.* have power to take *Poſſe Comitatus. Dal.* 473.

Women Servants of twelve and under forty unmarried, shall be compelled to ſerve at the diſcretion of two Juſtices. *Dal.* 123.

Women may not travel beyond Sea (nor Children) without the Kings licenſe (paſs) or ſix of the Privy Council, upon the forfeiture of the Port Officers place, and Maſter of the Veſſel's impriſonment a twelve month: *Vide* Travelling, *&c.*

A woman for Treaſon and Petty Treaſon shall be (for Treaſon drawn on a hurdle, and) burnt alive; for felony hang'd. *Dal.* 339.

Women never loſe dignity gain'd by marriage. *Dal.* 268. But this is by common curteſie. *Vide* 1 *Inſt. contra.*

Clergy not grantable to Women.

A woman-ſervant marrying, muſt ſerve out her time, and her husband cannot take her out of ſervice. *Dal.* 129.

Resolutions of the Judges of Assises, 1633.

Question 1.

WHether the Churchwardens and Overseers of the poor of a parish with assent of two Justices of the Peace, one being of the Quorum, may by the Statute of 43 *El.* c. 2. or any Law enforce a parishioner of the same parish, to take a child of a poor parishioner of the same parish, who is not able to keep his said child, to be an Apprentice?

Resolv. The Statute of 43 of *Elizabeth*, which saith, that the Churchwardens and Overseers of the parish shall put out children, to be Apprentices, necessarily implyeth, that such as are fit must receive Apprentices, and the putting out of poor children to be Apprentices, is one of the best ways for the providing for the poor.

Q. 2. If they may, then whether they must not give money with him, and who shall determine what money shall be given with him, if the party that is to take such an Apprentice, and the Churchwardens, and Overseers cannot agree thereupon?

Res. There is no necessity that money must be given, but that must be left to the discretion of the Churchwardens and Overseers, all circumstances of age and ability being considered, and if they cannot agree with the party, then the Justices of Peace near adjoyning, or in their default, the Sessions of Peace are to determine these Controversies.

Q. 3. Whether a Knight, Gentleman, Clergyman, or Yeoman, or one that is Sojourner, using husbandry, cloathing,

cloathing, or grasing, or the like, may be enforced to take such an Apprentice?

Resol. Every man who is by calling or profession or manner of living, that entertaineth, and must have the use of other servants of the like quality, must entertain such Apprentices, wherein discretion must be given upon due consideration of circumstances.

Q. 4. Whether a wealthy man keeping few or no servants, not wanting a servant, but living privately may be enforced to take such an Apprentice; if not, then whether he may be taxed towards the putting forth of such an Apprentice?

Resol. For the receiving of such Apprentices, the answer may be referred to the question next before, but out of doubt every such person must contribute to the charge, as to other charges for the provision for the poor.

Q. 5. Whether they may enforce a parishioner that is of one parish, to take such a child Apprentice, that is of another parish, but within the same County or division, if the proper parish be not able to provide for the children of the same parish?

Resol. The Justices may provide Masters for them in other parishes within the same Hundred; if the same Hundred be not able, then out of that Hundred in the rest of that County, as for other provision for the poor, which must be at a Quarter Sessions.

Q. 6. If such a parishioner may be enforced to take such an Apprentice, and shall refuse not only to take such an Apprentice, but also refuse to be bound to appear at the next Quarter Sessions, or Assises, what shall be done to him?

Resol. If any refuse, let such a one be bound over to the next Sessions or Assises; if he refuse to give such bond, let him be sent to the Goal, there to remain until he will give such bond.

Q. 7. If such a parishioner who refuseth to take such an Apprentice shall be bound over to the Sessions for not taking such an Apprentice; and when he appeareth

appeareth there, shall likewise refuse, what shall be done to him, and what shall be done to the parents who refuse to suffer their children to be put out to be Apprentices, themselves not being able to maintain them?

Resol. If at the Sessions or Assises such a one refuseth to take an Apprentice, and his excuse be not allowed, it is fit he be bound to the good behaviour, and it will be a good course to indict such a refuser for a contempt, and thereupon to fine and imprison him; if he refuse to be bound to the good behaviour, let him be imprisoned until he will; and the Kings Books of Orders directs, that such be bound with good sureties to appear at the Council-board; and if the parents of such poor children refuse to suffer their children to be bound Apprentices, or being bound, entice them away, themselves not being able to maintain them, let them be committed to the House of Correction.

Q. 8. Whether it be in the power of any general Quarter Sessions to mitigate any penalty upon a Statute Law; if the party indicted shall submit himself to the fine of the Court, and wave the Traverse?

Resol. If the party be convicted, or confess the fault, it is not in the power of the Court to mitigate the fine, in such cases where the Statute makes it certain; but if the party indicted protesting his innocency, yet *quis nolnit plitare cum Domino Rege* puts himself up into the grace of the Court, the Court may impose a moderate fine, and order to forbear the prosecution.

Q. 9. If any be bound to appear at the Sessions, and shall tender submission to the Court, whether the Sessions may stay the Indictment, and mitigate the fine aforesaid upon the confession of the fact?

Res. This is answered before to the next precedent Article.

Q. 10. If a man be convicted for being drunk, tipling, and keeping an unlicensed Ale house, or being licensed, for suffering others to remain tipling in his house, or for swearing, or driving Cattel upon a Sunday

Sunday contrary to the Statute in that case provided, whether the Justice of Peace before whom he was convicted, or any other Justice of the Peace may discharge him of all or part of the forfeiture or punishment appointed by the Statute?

Resp. The Justices have no such power of mitigation after conviction, where the statute appoints the measure of the punishment.

Q. 11. Whether a Constable may upon a warrant for carrying one to the House of Correction for keeping an unlicensed Alehouse, upon the second conviction break open the house wherein the party convicted is, to apprehend him?

Resol. This question is to be advised upon, it is put in general terms, and referred to be considered in the particular where it appeareth.

Q. If a woman unmarried be hired from week to week, or from half year to half year, in one parish, and there be gotten with child, and then goeth from thence unto another parish, where she is setled in service by the space of two or three months, and then discovered that she is with child; the question is, whether she shall be settled in the parish where she was begotten with child, or in the parish where she was last setled?

Resp. The place where such a woman was lawfully settled, is the direction in this case, not where she was begotten with child.

Q. 13. If a Woman servant unmarried be begotten with child, and then goeth out of her Mistres's service, before or after it is discovered she is with child, and the reputed Father be run away, or is not able to free the parish; whether the Master may be enforced to provide for her till she be delivered, and for a month after?

Resp. If the Master hath legally discharged his house of such a servant, he is no more bound to provide for her than any other.

Q. 14. In case a parish consist part of ancient

Demesn,

Demesn, and part of *Guildable*, an Assise is made for their relief of the maimed Soldiers, the Goal, &c. according to the statute of 24 *El. c.* 2. whether the tenants in ancient Demesn shall contribute with the Guildable for the payment of the Assize?

Res. The Statute doth not distinguish between the ancient Demesn and the Guildable in these cases. *Ubi lex non distinguit, ibi nec nos distinguimus.*

Q. 15. Whether an Indictment of forcible detainer be within the Statute of 1 *Fac. c.* 5. and not to be removed by *Certiorari*, unless the party indicted first find sureties, according to that Statute: and whether the party indicted be to be bound in his absence to prosecute according to that statute: and whether an Indictment of forcible entry, &c. found at a private Sessions be to be removed by *Certiorari* without sureties, according to that Statute?

Res. This is fittest to be left unto the Court of Kings Bench, to whose Commission and Jurisdiction this is most proper.

Q. 16. If one be convicted upon the Statute of 3 *Car. R. c.* 13. for driving of Cattel on the Sunday through several parishes; whether he forfeit twenty shillings to every of the said parishes; or only to one: if to one, then to which of them?

Res. This Statute giveth the forfeiture but to one twenty shillings for one Sabbath day, altho the driving of that day be through divers parishes. Therefore where the action is first attached, and the distress first taken, that parish shall have the benefit of the forfeiture, and not the other.

Q. 17. If one who is under the age of thirty years, and brought up in husbandry, or a maid-servant, or brought up in any of the Arts or Trades mentioned in the Statute of 5 *El. c.* 4. and not enabled according to that statute, to live at his or her own hand, shall be warned by two Justices of the Peace to put him or her self in service by a day prescribed by them, and shall not

not do the same accordingly, but shall after continue living at his or her own hand; what course shall be taken with such a person, and how punished?

Ref. Such persons being out of service, and not having visible means of their own, to maintain themselves without their labour, and refusing to serve as an hired servant by the year, may be bound over to the next Sessions or Assizes, and to be of the good behaviour in the mean time, or may be sent to the House of Correction.

Q. 18. Whether the tax for the relief of the poor, upon the statute of 43 *El.* shall be made by ability or occupation of Lands, or both; or whether the visible ability in the parish where he lives, or general ability whereesoever; and whether his rent received within the parish where he lives shall be accounted visible ability; and whether he shall be taxed of them only, and for any Rents received from other parishioners; and what shall be said visible ability?

Ref. The land within each parish is to be taxed to the charges in the first place equally and indifferently, but there may be an addition for the personal visible ability of the parishioner within that parish, according to good discretion, wherein if there be any mistaking, the Sessions, *&c.* or the Justice must judge between them.

Q. 19. Whether shops, salt-pits, sheds, profits of a market, *&c.* be taxable to the poor as well as lands, cole mines, *&c.* expressed in the statute. 43 *El.*

Ref. All things which are real, and a yearly revenue must be taxed to the poor.

Q. 20. Whether the tax for the County stock, goal, and House of Correction is to be made by the statute of 14 *El. c.* 43. by ability, and upon the inhabitants of the parish only, or upon them, or the occupiers of lands, dwelling in that parish: or whether such as occupy lands in that parish, and dwell in another parish shall be taxed?

Ref.

Res. If the ſtatute in particular caſes give no ſpecial direction, it is good diſcretion to go according to the rate of taxation for the poor; but when the ſtatutes themſelves give directions, follow that.

Q. 21. Whether any taxes ought to be made for the charges that Pety Conſtables and Borsholders are at in conveying rogues from Parish to Parish, and relieving of them, and how to be taxed?

Reſ. It is fit to relieve the Conſtable and Tythingmen, in ſuch ſort as it hath been uſed in the ſeveral places where they live.

Q. 22. Whether a Juſtice of Peace may diſcharge a ſervant being with child from her ſervice, allowing that as a reaſonable cauſe, that she is thereby made unable to do the ſervice which otherwiſe she might have done; and if he may diſcharge her, whether that parish shall provide for her till her delivery, if she cannot provide for her ſelf; and ſo alſo if her time be expired before her delivery, who shall provide for her after her time ended?

Reſ. If a woman being with child procure her ſelf to be retained with a maſter who knoweth nothing thereof, it is a good cauſe to diſcharge her from his ſervice: and if she be begotten with child during her ſervice, it is all one. But the maſter in neither caſe muſt turn away ſuch a ſervant of his own authority: But if her term be ended, or she lawfully diſcharged, the maſter is not bound to provide for her, but it is a misfortune faln upon the parish, which they muſt bear as in other caſes of caſual impotency.

Q. 23. Whether being delivered of a Baſtard child in one Parish, and goeth into another with her child, and becomes vagrant, and ſo is ſent to the place of her birth: her baſtard child being under the age of ſeven years, shall be ſettled with the mother, and there maintained if the mother be not able, nor the reputed father known, found, or whether it shall be ſent to the place of its birth, or being ſettled with the mother, whether

whether the parish where it was born shall be ordered by the two next Justices to pay a weekly sum towards the maintenance of it?

Ref. The bastard child must be placed with the mother, so long as it is within the quality or condition of a Nurse-child, which shall be till seven years of age; and then it is fit to be sent to the place of its birth to be provided for, the mother or reputed father not being able. And the Parish where the child is born, shall not be forced to contribute to the charge, as long as the mother lives, and the child be under seven years old.

Q. 24. A man with his wife and children takes an house in one parish for a year; and before the end of his term is unlawfully put out of possession, and after taketh part of an house as an inmate in another parish, from whence he is also put out, and then not being able to get any dwelling, they come to lie in a Barn in a third parish where the husband falleth sick, and the wife is delivered of another child, where ought these to be settled?

Ref. If a man or woman having house or habitation in one parish be thrust out, this is an illegal unsettling, which the Law forbiddeth; for none must be enforced to turn Vagrant, and such a one must be returned to the place where he or she was last lawfully settled, and the child also born in the time of this distraction.

Q. 25. Whether an Apprentice put out by the Churchwardens, *&c.* according to the statute, to a master in another parish, if his master die and leave no Executor or Administrator fit to keep an Apprentice, or able to place him; he shall be provided for in the parish where he was an Apprentice; or shall be sent back to the parish from whence he was put out?

Ref. Servants and Apprentices are by Law settled in that parish, and if they become impotent there, the parish must abide the adventure after their term or time of service be lawfully ended.

Q. 26. What is accounted a lawful settling in a parish, and what not?

Ref.

Ref. This is too general a question to receive a perfect answer to every particular case which may happen; But generally this is to be observed, that the Law unsettleth none, who are lawfully settled; nor permits it to be done by practice, or compulsion; and every one who is settled is a native housholder, sojourner, an Apprentice or servant for a month at the least, without a just complaint made to remove him or her, shall be held to be settled.

Q. 27. A rogue is taken at *C*, and will not confess the place of his birth, neither doth it appear otherwise, but that he confesseth the last place of his habitation to be at *S*, hereupon he is whipped and sent to *S*, at his coming to *S*, the place of his birth, is there known by some to be at *W*, and thereupon the Rogue confesseth it to be so: whether he might without any new vagrancy be sent to *W*?

Ref. In this case it is fit to send such a Rogue to the place of his birth; for this is but a mistaking, and no legal settling.

Q. 28. If an Indictment be preferred to the Grand Jury of the Quarter Sessions of the Peace against one for murder, manslaughter, for robbery, felony, or Pety Larceny, and *Ignoramus* found thereupon; whether the said Sessions may deliver the party by proclamation, or not?

Ref. Not by Proclamation at all, but for Pety Larcenies, and other pety felonies, in discretion the Goal may be delivered of them.

Q. 29. If a Constable be chosen, and refuseth to take his Oath; what shall be done, and whether a Constable may make a deputy, and by what means?

Ref. The refusal or neglect to take Oath in such a case is a contempt worthy of punishment, and thereupon to fine and imprison him; and the making of a deputy is rather by toleration, than by Law.

Q. 30. If a Constable die, or remove out of the Parish where, &c. how is his place to be supplied?

Ref.

Resp. By the Lord of the Leet, if that time fall near, otherwise by the Sessions, but if that be too far off, then by the next Justices.

If a poor weak man be chosen Constable or Tything-man, and be unfit for the same place, how may he be removed, and a fit man sworn in his room?

Resp. The Justices of Peace must help this, and if the Lord of the Leet have power to chuse a Constable, or Tything-man, and perform so ill; it is a just cause to seise his liberty.

Q. 32. If a Nurse-child, a Scholar at a Grammar-School, or in the University, prove to be impotent by sickness, lameness, lunacy, or discovery of ideocy, &c. how such persons shall be disposed?

Resp. A Nurse child, or Scholar at the Grammar-School, or at the University, or persons sent to the Common Goal, Hospital, or Houses of Correction, are not to be esteemed as persons to be setled there, no more than Travellers in their Inns, but their settling is where their parents are settled: and Children born in Common Goals, and Houses of Correction, their parents being prisoners, are to be maintained at the charge of the County.

Q. 33. What proportion Parsonages, or Tythes shall bear to the Taxation of the poor of the parish?

Resp. The Parson or Vicar presentative, shall according to the reasonable value of his Parsonage, having consideration to the just deductions.

Q. 34. Whether for placing the poor of the parish, not to be removed by consent of the parish, these poor men may not be placed as Inmates for that time?

Resp. They may by expres words of the Statute, 43 of *Elizabeth.*

Q. 35. If a Parishioner, or owner within a parish, do bring into the parish without the consent of the parish, a stranger of another parish, which is, or apparently is like to be burthensome unto the parish, how they may ease themselves.?

Res. By taking such a one to the charge of the rates of the poor, not only having respect to his ability or the land he occupies, but according to the damage and danger he bringeth to the parish by his folly.

Q. 36. For warding in the day-time for apprehending of Rogues, whether the Constable may not enlarge it to a farther time?

Res. Warding in the day-time is of great use, and must be left to the discretion of the Constables, or direction of the Justices to vary according to the occasion.

Q. 37. Whether Ale-houses ought to be allowed only in thorow-fare Towns and others, in other places to be restrained only to sell to the poor out of doors.

Res. The Justices shall do very well to allow none but in places very fit for their situation and uses, and to moderate the number.

Q. 38. A man for his quality otherwise fit to be a Constable, or of other Officer of that nature, procures himself to be the Kings Servant extraordinary, and by that means would excuse himself to serve in the County?

Res. A Servant extraordinary may well perform his ordinary service in the Country according to his quality.

The Justices opinion touching the Commissions by which the Justices sit at Newgate.

THe Justices of *Newgate* sit by vertue of two Commissions, *viz.* Goal delivery, and Oyer and Determiner.

By

By the Commission of Goal-delivery they may try all prisoners in the Goal, or by Bail, or such as be indicted will render themselves, generally for all felonies, and also for such other offences as are particularly assigned to them by statute.

The statute of 4 *El. c.* 2. doth give them power to receive Indictments against Prisoners, or such as are upon bail, and to proceed to try the same, *viz.* Indictments taken before the Justices of the Peace, and by equity thereof all Indictments before Coroners, 3 *Mar. Bro. Commission. omnium* 24. saith, That the Commission is *ad deliberand. Gaol. de prison. in eisdem existen.* But they cannot take Indictments as Justices of Goal-delivery, but being Justices of the Peace, they may take Indictments against Prisoners, but not against them that be at large: for as much as power is given them, consequently they must have means to do so, which is by Indictments. *Id. Quærend.*

Howsoever it is clear, that they may enquire of many offences, and take Indictments in such cases where power by the statute is given to the Justices of Goal-delivery, in such cases where they have authority by Law or Statute, there the title of Indictments is, that *Ad gaolam deliberationem tent.* before the Commissioners of Goal delivery, *I S.* was indicted, and the record must be made up so.

And whereas by the statute of 4 *El. c.* 2. Indictments taken before Justices of Peace or Coroners, or any other against any Prisoners, then the entry of the Indictments is returned taken, *Memorand. quod ad generalem Sessionem tent.* before *A, B, C,* Justices *ad pacem in Com. Middlesex* or *London, I S.* was indicted, and then tried before Justices of Goal-delivery, and by vertue of the said Statute, Indictments taken before Justices of the Peace of *London* or *Middlesex*, are tried before the Justices of Goal delivery.

The Commissioners of Oyer and Terminer is, *Ad triand. inquirend. audiend. & determinand.* They may

inquire of all offences mentioned in the Commiſſion, albeit the offenders be at large, but they cannot try Priſoners upon Indictments taken before any other than themſelves, as the Juſtices of Goal delivery may by the aforeſaid Statute, unleſs there be a ſpecial Commiſſion made, as it was in the Caſe of the Earl of *Leiceſter*, mentioned in *Plow. Com.* for the ordinary Commiſſion of Oyer and Terminer is *ad inquirend. audiend. & determinand.* therefore they cannot determine of things, unleſs they made inquiry firſt, and on the other ſide alſo, the Juſtices of Goal-delivery may try Indictments taken before Juſtices of the Peace, yet if one be indicted before Commiſſioners of Oyer and Terminer, the Juſtices of Goal-delivery cannot try the ſame, becauſe the Records of the Commiſſion of Oyer and Terminer are to be returned into the Kings Bench. 44 *E.* 3. 31.

The Commiſſion, and the Records of the proceedings before the Juſtices of Goal-delivery, are to be returned to the *Cuſtos Rotulorum* of the County; when the ſame perſons are Juſtices of Goal-delivery, and of Oyer and Terminer, they may ſit the ſame day and place, and inquire by the ſame Jury, but the entry of the Records muſt be ſeveral, according as the Indictment is.

At the Aſſizes in the County, the Juſtices have their ſeveral power as the Juſtices of Goal-delivery, Oyer and Terminer, and Juſtices of Peace.

But when the Records are made up, they muſt be according to the power they made election to proceed upon.

This is the regular and legal courſe. But the Clarks of the Aſſizes promiſcuouſly make entry thereof; but if a Writ of Error be brought, they muſt certifie according to Law, or elſe it will be erroneous; and ſo upon a *Certiorari*.

The Seſſions of *London* may be begun at Guild-hall, and then adjourned to New-gate, If ſome Indictments be

be at Guild-hall, then those must be so certified; if others at Newgate, then the adjournment must be mentioned, and that the Indictment was then taken.

Note that the Trial of Indictments taken before Justices of the Peace of *London*, cannot be tried at Newgate, as in nature of a trial before Justices of the Peace at *London*, for many of the Commissioners for Goal-delivery, are not Justices of the Peace for *London*, but in such cases the Trial must be before the Justices of Goal-delivery; as upon Indictments taken before the Justices of the Peace of *London*; as in the case of Indictments taken before the Justices of the Peace of *Middlesex*.

But if Indictments at *Newgate* be originally taken before them, as Justices of Goal-delivery; then it is inquirable how the Jury sworn, and impannelled to inquire at the Sessions of the Peace for *London*, or *Middlesex*, do serve to present Indictments before the Justices of Goal-delivery at *Newgate*, unless the custom and usage will warrant the two several Juries, sworn at the Sessions of the Peace for *London* or *Middlesex*, are also by the same Oath and impannelling to serve for the Grand Jury for the Commission of Goal-delivery, and Oyer and Terminer.

Upon conference with Mr. *Keeling*, and the Clarks for *Newgate* of *London* and *Middlesex*, and the Clarks of Assizes, and view of the several Entries, a more mature and certain resolution may be given, this being in haste, and without such consideration as were requisite.

A Compendious Charge to be given at the Quarter Sessions.

For as much as the Government of this Kingdom consists of two parts, *viz.* first in Laws Ecclesiastic for the peace of the Church, and Laws Civil, or Temporal, for the peace of the Land; it is not unfit, to lay a foundation by taking notice of that excellent Law made *anno* 3 *Ed.* 1. which is, First of all the King willeth and commandeth that the Peace of the Holy Church, and of the Land be kept and maintained in all points; and that common right and justice be done to all as well poor as rich, without respect of persons. And there is another excellent expression in an Act of Parliament made 32 *H.* 8. *c.* 9. *viz.* There is nothing which in this Realm that conserves the Subjects in more quietness, rest, peace, and good concord, then due administration of Laws; and those Laws which are here proper for your Iniquity, and our administration at this time are first, such as be made against offences touching Religions.

The Articles of the Charge.

Popes Supremacy.

The affirming or defending by any advised Act the Popes Ecclesiastic Jurisdiction in any of the Kings Dominions, the first offence is *Præmunire*; and the second offence is treason. 5 *El.* 1. & 1 *El.* 1. the third offence High Treason. *Ib.*

Refuse

Refuſe Oath of Supremacy.

The refuſing to take the Oath of Supremacy upon any lawful requeſt, the firſt offence is *Præmunire*; and the ſecond is treaſon. 1 *El.* 1, 5 *El.* 1.

Oath of Allegiance.

The refuſing the Oath of Allegiance by any perſon above eighteen years of age it is *Præmunire.* Stat. 7. *Jac.* 6.

Seducing any from their Obedience.

The practiſing to withdraw any of his Majeſties Subjects from their obedience, and for that intent from their Religion to the Romiſh, is Treaſon. Stat. 23 *El.* 1.

Concealing ſuch Offences.

The aiding or concealing ſuch offenders for forty days, and not diſcloſing it to ſome Juſtice of Peace, is miſpriſion of Treaſon. Stat. 23 *El.* 1.

Saying or hearing Maſs.

If any ſhall ſay, or hear Maſs; for the firſt offence forfeits an hundred marks, and for the ſecond offence two hundred Marks, and one years impriſonment.

Agnus Dei, Popes Bull, &c.

The bringing into the Kingdom, or uſing any Bull, *Agnus Dei* got from the Biſhop of *Rome*; or other

ſuperſtitious thing; or offer the ſame to any perſon to be uſed; or the abſolving or counſelling his Majeſties Subjects to the uſe of them; or concealing or countenancing any ſuch offender; firſt offence is *Præmunire*; ſecond offence is Treaſon. 13 *El.* 2. 23 *El.*

Jeſuit, Prieſt.

The harbouring or aiding any Jeſuit, Prieſt, or Deacon, ordained by authority from the See of *Rome*, knowing him to be ſuch; felony without Clergy. 27 *El.* 16.

Witchcraft.

Witchcraft, Conjuration, Invocation of evil ſpirits is felony. 1 *Jac.* c. 12.

Falſe Propheſies.

The publiſhing of phantaſtical or falſe Propheſies, to raiſe Rebellion, diſſention, loſs of life, or other diſturbance in the Kingdom; for the firſt offence he forfeits ten pounds; ſecond offence all his Goods, and impriſonment for life. 5 *El.* 15.

Swearing and Curſing.

Prophane Swearing and Curſing; the offender forfeits twelve pence to the uſe of the poor of the place where the offence was committed. 21 *Jac.* c. 20.

Perjury.

The committing or procuring willful perjury forfeits twenty pounds, and diſabled for a witneſs; ſc

and

and to ſtand on the Pillory. *5 Elizab. cap. 9. 14 Ed. 11.*

Profaning the Lords Day.

Profaners of the Lords day by any paſtimes or ſports whatſoever, or by voluntary work, as Shoomakers; forfeits 3 s. 4 d. Drovers, Butchers forfeit 6 s. 8 d. *1 Car. 1. 3 Car. 1.*

Diſturbing a Miniſter.

Diſturbing Preachers in Sermons or Divine Service, three months impriſonment and good behaviour. *1 M. 3.*

Depraving the Sacraments.

Contemners and depravers of the Bleſſed Sacrament of the Body and Blood of Chriſt in word or actions, within three months, impriſonment and fine at diſcretion. *1 E. 6. 1 El. 1.*

Derogating from the Book of Common-Prayer.

Any perſon or Miniſter derogating from the Book of Common-Prayer, or not uſing the ſame; or adminiſtring the Bleſſed Sacrament in any other form than is there appointed; the firſt offence is loſs of promotion, and one years impriſonment; the ſecond offence deprivation, and impriſonment for a year; the third offence deprivation and impriſonment for life. *1 Ed. 6. 1. 2 & 3 Ed. 6. 1. 1 El. c. 2. 23 El. c. 1.*

Juſtices

Juſtices of Oyer and Terminer, and of Aſſize, may hear and determine.

Or maintaining any Miniſter in the ſame, or that ſhall interrupt the publick ſervice in the Church; the firſt offence ten pounds, and if not paid within ſix weeks, he ſhall ſuffer three months impriſonment; the ſecond time twenty pounds, and ſix months impriſonment; the third time forfeit goods, and impriſonment for life. 2 & 3 *Ed.* 6. 1.

Twelve pence a Sunday not coming to Church.

The not repairing to Church upon every Sunday and Holiday weekly, there abiding ſoberly all the time of Divine Service, if they be of the age of ſixteen years; forfeit twelve pence for every Sundays abſence. 1 *El.* 2. 23 *El.* 1. 3 *Jac.* 4.

Recuſants.

The not repairing to Church for the ſpace of one month together, forfeits twenty pounds a month, or two parts of the offenders lands.
1 *El.* 2.

School-maſters.

The keeping any School maſter not reſorting to the Church, or allowed by the Ordinary, forfeits ten pounds a month, and that Schoolmaſter diſabled, and one years impriſonment. 23 *El.* 1. 3 *Jac.* 4.

Striking

Striking in Church or Church-yard.

For malicious ſtriking with any weapon or drawing any weapon in Church, or Church-yard; the offender to loſe one ear and marked with the letter Stat. 5 *Ed.* 6. *c.* 4.

The keeping of Fair or Market in Church, or Church-yard, fine at diſcretion. 13 *Ed.* 1. 6. *Lam.* 419.

Pety Treaſon.

The ſervant killing his Maſter, or Miſtreſs; the Wife her Husband; the Clerk his Ordinary; is Pety Treaſon. 1 *E.* 6. *c.* 12.

Murder.

The taking away any mans life upon malice forethought, or poiſoning any; is murder. 1 *E.* 6. *c.* 12.

Stabbing.

Stabbing any that hath not his weapon drawn; or hath not firſt ſtrucken the party ſtabbing, ſo as he die within ſix months; no Clergy to be allowed for this offence, tho but Man-ſlaughter. 1 *Jac.* *c.* 8.

Se defendendo, per infortunium.

Killing any man in his own defence, or by Chance-medly; the party forfeits all his goods, and to be impriſoned until he ſue out his pardon of courſe.

Cutting

Cutting out of Tongues.

Cutting out of the tongue, or putting out of the eyes of any of the Kings Subjects maliciously is felony by 5 *H.* 4. *c.* 5.

Buggery.

Committing the deteſtable ſin of Buggery with man, or beaſt; is felony without Clergy. 25 *H.* 8. 6. 5 *Eliz.* 17.

Rape.

Forcing or raviſhing any woman above ten years of age; or carnally knowing any under; is felony without Clergy. *Weſtm.* 2. *c.* 34. 18 *El.* 7.

Marrying two Wives.

Taking a ſecond Husband or Wife, the firſt being alive; is felony, unleſs the one hath been above the ſpace of ſeven years, beyond Sea, &c. 1 *Jac.* 11.

Robbery.

Robbing any man upon the high-way, cutting a purſe; or taking above five ſhillings out of any dwelling-houſe in the day-time; or breaking any dwelling-houſe in the night, with a felonious intent, which is Burglary; and ſtealing of Horſes, or Mares, all theſe are felonies without Clergy. 8 *El.* 4. 5 *Ed.* 6. 9. 23 *H.* 8. *c.* 1. 39 *El.* 15.

Felony.

Felony.

Taking any mans goods with an intent to ſteal them, is felony, if above twelve pence, and if under twelve pence, Pety Larceny.

Burning Houſes.

Burning malicioufly any dwelling-houſe, or barn, having grain or corn therein; is felony without Clergy. 4 & 5 *P. & M.* 4.

Servants embezelling Maſters Goods.

Servants embezelling their Maſters Goods, is felony if it be to the value of forty ſhillings, and the party eighteen years of age being truſted with it, unleſs he be an Apprentice. 22 *Henr.* 8. 7. 5 *Eliz.* 10.

Hunting in the night.

Unlawful hunting by night in Parks, or Warrens, and denying the ſame upon examination; is felony by 1 *Hen.* 7. *c.* 7.

Aſſemblies to alter Laws, and throw down Incloſures.

Rebellious Aſſembly of twelve perſons, or above, being aſſembled, and intending to go about a practice with force, unlawfully to change any Laws of this Realm; or forcibly to caſt down any Incloſure, to have any common or high-way there; or do any ſuch unlawful

unlawful act, and being commanded by the Sheriff or any Juſtice of Peace by Proclamation to depart, and yet have continued together one hour after; or if any have cauſed to be raiſed to the number of twelve perſons, or above, to ſuch intent, and being commanded by proclamation, and yet have ſo continued together an hour after; or if any have delivered virtually money or weapons to any ſuch perſon ſo aſſembled; or have hindered any that went to make proclamation; this is felony *per Stat.* 1 *Mar. c.* 12. 2 *El. c.* 16.

Acceſſaries before and after.

All Counſellors or procurers before the felony; and all aiders and receivers after the felony, knowing the ſame, are Acceſſaries.

Extortion in a Coroner.

Any Coroner that takes above thirteen ſhillings four pence, for the view of any dead body; and upon the murtherers goods, or of the Town from whence he eſcaped; he forfeits five pounds. 3 *H.* 7. *c.* 1.

In a Chief Conſtable.

Any perſon that takes above two pence for regiſtring any Servants Teſtimonial upon his departure from one place unto another, fine at diſcretion. 5 *El.* 4.

Extortion in an Ordinary for Probate of Wills.

Any Ordinary, or his Clark, that takes above ſix pence for the Probate of a Will; or ſix pence for Letters

ters of Administration, whereof the goods of the Intestate exceeds not ten pounds, and not above three shillings six pence, where they exceed not forty pounds, or five shillings for both; or a penny to the Scribe for every line of ten inches; loseth ten pounds, and to the party so much as he hath paid. 22 *Henr.* 8. *cap.* 5.

Clark of the Market, and other Officers.

Any Clark of the Market, Clark of the Peace, Justices Clark, or Sheriffs Clark, or Bailiffs, or other Officers, that take above their due fees. 23 *H.* 6.10. 1 *Ed.*4.2. 12 *H.*7.15. 42 *Ed.*39. 27 *El.*7. 27 *H.*4. 5 *E.*6.25. 7 *H.*7.3. 7 *H.*7.4.

Hue and Cry.

Hue and Cry raised unjustly; or not being followed when well raised. 3 *E.*2 *c.*9.

Watch.

Watch not set in any Town between Ascension-day and Michaelmas. 2 *Ed.* 2.

Going armed.

Riding or going armed in affright of the Country; is imprisonment, and loss of Armor. 2 *Ed.* 3. *cap.* 3.

Escape.

Eſcape.

Eſcape negligent of any priſoner arreſted for felony. 1 *R.* 3. *c.* 3.

Barretors.

Common Barretors, or maintainers of ſuits, Embracers of Jurors; muſt ſuffer impriſonmeut, and good behaviour. 34 *E.* 3. 1. 33 *H.* 8. 10. 37 *H.* 8. *c.* 7.

Forcible Entries.

Forcible Entries, or detainers of poſſeſſions by force; fine and impriſonment. 8 *H.* 6. 4.

Cutting Ponds.

Cutting of Pond-heads, taking of Fiſh, Hawks, or Hunting Deer or Conies againſt the owners will, in any Warren or ground incloſed, three months impriſonment, and good behaviour for ſeven years. 5 *El.* 21. 3 *Jac. c.* 13.

Tracing Hares.

The tracing Hares in the Snow, or killing them by any Engine; the taking of pheaſants or partridges by Net, or any other device; as alſo Hawking and Hunting in eared Corn, forfeiture for every pheſant twenty ſhillings; for a partridge ten ſhillings, for Hawking forty ſhillings. 11 *H.* 7. *c.* 17. 23 *El.* 10. 7 *Jac.* 11. 1 *Jac. c.* 17.

Foreſtalling.

Forestalling.

Which is intercepting of Corn, and buying it coming to the Market, before it come there. 5 *Ed.6 c.14.*

Ingrossing.

Which is the buying any Corn or Commodities, with intent to sell again.

Regrating.

Which is the buying of any Commodity in any Market, and selling it again in the same, or in any other market within four miles of the same; the first offence loss of Goods, and two months imprisonment; the second offence double the Goods, and six months imprisonment; the third offence is loss of goods and pillory. 5 *E.6.14.* 5 *El.12.* 13 *El.12.*

Destroying the Eggs of Wild Fowl.

Taking or destroying the Eggs of any Wild Fowl usually eaten, before the first of *March*, and the last of *June*; or the fry of fish; imprisonment for a year, and lose for every egg. 25 *H.8.1.* 3 *Ed.6.3.* 1 *El.17.* 14 *El.c.1.* 27 *El.c.11.*

Drunkenness.

Any person convicted of Drunkenness, forfeits five shillings to the poor. 4 *Jac. c.5.*

Butchers, &c. ſelling Victuals at immoderate Prices.

Butchers, Innholders, Brewers, Bakers, Tiplers, or other ſellers of Victuals at immoderate prices; or that put off any corrupt or unwholſome Victuals; are to loſe double what they take. 13 *R.* 2 *c.* 8. 2 & 3 *Ed.* 6. *c.* 15. If it be done by conſpiracy, the firſt offence ten pounds, and twenty days impriſonment; the ſecond offence twenty pounds, and pillory; the third offence forty pounds, and the loſs of one ear.

Veſſels of Wine, Ale, &c.

Veſſels of Ale, Wine, Beer, or Oil, not being of the full ſtandard; the barrel for beer muſt be thirty ſix gallons; and for Ale, Wine, and Oil thirty two; fine is forty ſhillings, *per ſtat.* 1 *R.* 3. 13. 2 *H.* 6. 11.

Alehouſes diſorderly.

Any Alehouſe being diſorderly, or not keeping the Aſſiſe of Ale and Beer, in not ſelling a full quart of ſtrong, and two quarts of ſmall for a penny, or any other brewing without licenſe; twenty ſhillings for every offence, and diſabled for three years. 4 *Jac.* 5. & 1 *Jac.* 9. loſe twenty ſhillings for the firſt offence; and for the ſecond offence Houſe of Correction. 3 *Car.* 3. 5 *E.* 6. three days impriſonment without bail.

Falſe

False Weights and Measures.

Buying or selling by false and unsigned Weights and Measures; the first offence six shillings eight pence; second offence thirteen shillings four pence; third offence stand on the pillory. 11 *H.* 7. 4.

Artificers conspiring, &c.

Artificers conspiring to work but at certain rates; the first offence ten pounds, or twenty days imprisonment with bread and water; second offence twenty pounds, or standing on the pillory; third offence forty pounds, or loss of an ear. 3 *Ed.* 6. 5.

Guns.

Using or having of Guns or Cross-bows against Law, or shooting hail-shot in them, forfeits ten pounds for every offence. 3 *H.* 8. 6

Servants.

Retaining Servants for less than one year; or they refusing to serve if they be compellable; or their departing, or being put away without a quarters warning, or the allowance of a Justice of Peace; Giving or taking greater wages than is allowed; or departing from one Town to another without a Testimonial; or not finishing a work begun; or not continuing so many hours, being hired by the day or week as is appointed;

pointed; or taking an Apprentice; or using any art not having been an Apprentice for seven years. 5 *El. cap.* 4.

Bridges and High-ways.

Bridges, or High-ways, being out of repair, and by whose default; Constables and Churchwardens not calling their parish together every Easter week to appoint six days for amending the same. 22 *H.* 8. *c.* 5. 2 & 3 *P.* & *M. cap.* 8. 5 *El.* 15. 18 *Eliz.* 9. 27 *El. cap.* 1.

Unlawful Games.

Using or maintaining Unlawful Games; as Cards, Dice, Bowling, Coyting-close, *&c.* fined forty shillings for one day, six shillings eight pence for every time. 33 *H.* 8. *c.* 9.

Bows and Arrows.

Person under the age of sixty years, not having Bows and Arrows in his house for himself, servants and children; and inhabitants of any Town not continuing their Buts. 33 *H.* 8. 9. Fine six shillings eight pence, fine twenty shillings.

Cottages, Inmates.

Erecting a Cottage without laying four Acres of arrable land unto it; or entertaining or receiving Inmates, forfeits for erecting ten pounds, for continuing forty shillings a month. 31 *El.* 7.

Now

Now seeing *Justitia est duplex, viz.* The punishing part, and the preventing Justice, the premisses only touching the former, therefore the conclusion shall point something at the latter, with a direction how it may be effected. We find by experience, that it is not frequent punishment that prevents offences; *præstat cautela, quam medela*, it is better preventing, than redressing offences. This preventing Justice consists in three things, according to a learned Author of our Laws. *Co. 3. Inst. Epilogue.*

First, in the good education of youth, which ought to be by instruction in the knowledge of Religion, and by learning some Trade in their tender years, so as there should not be an idle person, or a Beggar, according to the Scripture, *Deut. 15. 4.* But that every Child, whose parents are poor, might at the age of seven years earn their own living; and this for the time to come, would by preventing Justice avoid idleness in all, which is the *Mare Lethæum* where so many souls perish, and by honest Trades, cause them to become good members in the Common-wealth.

Secondly, in the execution of good Laws, which are already enough to punish idleness, but none of sufficient force to set idle people or youth on work.

Thirdly too frequent pardons, which make many offend in hope. This preventing Justice is better than punishing Justice; as obedience is better than sacrifice; for in sacrifice we do but repent of sin, but in obedience we prevent sin; and it is better preventing than repenting sin. And therefore worthy every mans consideration and endeavour, to promote this preventing Justice according to such good Laws as are already in force.

FINIS.